

**\*\*\*Adopted\*\*\***

**AMENDMENT No. 1 PROPOSED TO**

**House Bill NO. 1228**

**By Senator(s) Committee**

29           **Amend by striking all after the enacting clause and inserting**  
30 **in lieu thereof the following:**

31  
32           SECTION 1. This act may be cited as the "Mississippi Capital  
33 Post-Conviction Counsel Act."

34           SECTION 2. There is created the Mississippi Office of  
35 Capital Post-Conviction Counsel. This office shall consist of  
36 three (3) attorneys, one (1) investigator, one (1) fiscal officer  
37 and one (1) secretary/paralegal. One of those attorneys shall  
38 serve as director of the office. The director shall be appointed  
39 by the Chief Justice of the Supreme Court with the approval of a  
40 majority of the justices voting, for a term of four (4) years, or  
41 until a successor takes office. The remaining attorneys and other  
42 staff shall be appointed by the director of the office and shall  
43 serve at the will and pleasure of the director. The director and  
44 all other attorneys in the office shall be active members of The  
45 Mississippi Bar and shall meet all qualifications necessary to  
46 serve as post-conviction counsel for persons under a sentence of  
47 death. The director may be removed from office by the Chief  
48 Justice upon finding that the director is not qualified under law  
49 to serve as post-conviction counsel for persons under sentences of  
50 death, has failed to perform the duties of the office or has acted  
51 beyond the scope of the authority granted by law for the office.

52        SECTION 3. The Office of Capital Post-Conviction Counsel is  
53 created for the purpose of providing representation to indigent  
54 parties under sentences of death in post-conviction proceedings,  
55 and to perform such other duties as set forth by law.

56        SECTION 4. The Office of Capital Post-Conviction Counsel  
57 shall limit its activities to the representation of inmates under  
58 sentence of death in post-conviction proceedings and ancillary  
59 matters related directly to post-conviction review of their  
60 convictions and sentences and other activities explicitly  
61 authorized in statute. Representation by the office or by private  
62 counsel under appointment by the office will end upon the filing  
63 of proceeding for federal habeas corpus review or for appointment  
64 of counsel to represent the defendant in federal habeas corpus  
65 proceedings. However, the office may continue representation if  
66 the office or a staff attorney employed by the office shall be  
67 appointed by a federal court to represent the inmate in federal  
68 habeas corpus proceedings. In such event, the office or the  
69 employee attorney shall apply to the federal court for  
70 compensation and expenses and shall upon receipt of payments by  
71 the federal court pay all sums received over to the office for  
72 deposit in the Special Capital Post-Conviction Counsel Fund as  
73 provided in Section 9 of this act, from which all expenses for  
74 investigation and litigation shall be disbursed. Representation  
75 in post-conviction proceedings shall further include  
76 representation of the inmate from the exhaustion of all state and  
77 federal post-conviction litigation until execution of the sentence  
78 or an adjudication resulting in either a new trial or a vacation  
79 of the death sentence. The attorneys appointed to serve in the  
80 Office of Capital Post-Conviction Counsel shall devote their  
81 entire time to the duties of the office, shall not represent any  
82 persons in other litigation, civil or criminal, nor in any other  
83 way engage in the practice of law, and shall in no manner,  
84 directly or indirectly, participate in the trial or any person  
85 charged with capital murder or direct appeal of any person under  
86 sentence of death in the state, nor engage in lobbying activities

87 for or against the death penalty. Any violation of this provision  
88 shall be grounds for termination from employment, in the case of  
89 the director, by the Chief Justice, and in the case of other  
90 attorneys, by the director, with approval of the Chief Justice.

91 SECTION 5. The director appointed under this act shall be  
92 compensated at no more than the maximum amount allowed by statute  
93 for a district attorney, and other attorneys in the office shall  
94 be compensated at no more than the maximum amount allowed by  
95 statute for an assistant district attorney.

96 SECTION 6. The Director of the Office of Capital  
97 Post-Conviction Counsel shall keep the office open Monday through  
98 Friday for not less than eight (8) hours each day.

99 SECTION 7. In addition to the authority to represent persons  
100 under sentence of death in state post-conviction proceedings, the  
101 director is hereby empowered to pay and disburse salaries,  
102 employment benefits and charges relating to employment of staff  
103 and to establish their salaries, and expenses of the office; to  
104 incur and pay travel expenses of staff necessary for the  
105 performance of the duties of the office; to rent or lease on such  
106 terms as he may think proper such office space as is necessary in  
107 the City of Jackson to accommodate the staff; to solicit and  
108 accept monies, gifts, grants or services from any public or  
109 private sources for the purpose of funding, operating and  
110 executing the statutory duties of the office; to enter into and  
111 perform contracts, including, but not limited to, contracts and  
112 agreements necessary to obtain and receive monies, gifts, grants  
113 or services from federal, public and private sources, and to  
114 purchase such necessary office supplies and equipment as may be  
115 needed for the proper administration of said offices; and to incur  
116 and pay such other expenses as are appropriate and customary to  
117 the operations of the office. The director shall be required to  
118 obtain a surety bond in the amount of not less than One Hundred  
119 Thousand Dollars (\$100,000.00) payable to the state. The cost of  
120 such bond shall be paid out of funds appropriated for the  
121 operations of the office. All salaries and other expenditures

122 shall be paid from funds appropriated for such purposes augmented  
123 by funds received as gifts and grants from public and private  
124 sources.

125       SECTION 8. The director shall, as prescribed by the Chief  
126 Justice, keep a docket of all death penalty cases originating in  
127 the courts of Mississippi, which must at all reasonable times be  
128 open to the inspection of the public and must show the county,  
129 district and court in which the causes have been instituted. The  
130 director shall prepare and maintain a roster of all death penalty  
131 cases originating in the courts of Mississippi and pending in  
132 state and federal courts indicating the current status of each  
133 such case, and a history of those death penalty cases filed since  
134 1976. Copies of such dockets and rosters shall be submitted to  
135 the Supreme Court in such format and with such appropriate  
136 information and as frequently as the Chief Justice may direct.  
137 The director shall also report monthly to the Chief Justice the  
138 activities, receipts and expenditures of the office.

139       SECTION 9. If, at any time during the representation of two  
140 (2) or more defendants, the director determines that the interest  
141 of those persons are so adverse or hostile that they cannot all be  
142 represented by the director or his staff without conflict of  
143 interest, or if the director shall determine that the volume or  
144 number of representations shall so require, the director, in his  
145 sole discretion, notwithstanding any statute or regulation to the  
146 contrary, shall be authorized to employ qualified private counsel.  
147 Fees and expenses, approved by order of the appropriate court,  
148 including investigative and expert witness expenses of such  
149 private counsel shall be paid from funds appropriated to a Special  
150 Capital Post-Conviction Counsel Fund for this purpose, which fund  
151 is hereby created. Monies in this fund shall not lapse into the  
152 General Fund at the end of a fiscal year but shall remain in the  
153 fund and any interest which accrues to the fund shall remain in  
154 the fund.

155       SECTION 10. The director is further authorized to solicit  
156 and accept monies, gifts, grants or services from any public or

157 private source, for the purpose of funding, operating and  
158 executing the duties of the office.

159 SECTION 11. Section 99-19-105, Mississippi Code of 1972, is  
160 amended as follows:

161 99-19-105. (1) Whenever the death penalty is imposed, and  
162 upon the judgment becoming final in the trial court, the sentence  
163 shall be reviewed on the record by the Mississippi Supreme Court.  
164 The clerk of the trial court, within ten (10) days after receiving  
165 the transcript, shall transmit the entire record and transcript to  
166 the Mississippi Supreme Court together with a notice prepared by  
167 the clerk and a report prepared by the trial judge. The notice  
168 shall set forth the title and docket number of the case, the name  
169 of the defendant and the name and address of his attorney, a  
170 narrative statement of the judgment, the offense, and the  
171 punishment prescribed. The report shall be in the form of a  
172 standard questionnaire prepared and supplied by the Mississippi  
173 Supreme Court, a copy of which shall be served upon counsel for  
174 the state and counsel for the defendant.

175 (2) The Mississippi Supreme Court shall consider the  
176 punishment as well as any errors enumerated by way of appeal.

177 (3) With regard to the sentence, the court shall determine:

178 (a) Whether the sentence of death was imposed under the  
179 influence of passion, prejudice or any other arbitrary factor;

180 (b) Whether the evidence supports the jury's or judge's  
181 finding of a statutory aggravating circumstance as enumerated in  
182 Section 99-19-101;

183 (c) Whether the sentence of death is excessive or  
184 disproportionate to the penalty imposed in similar cases,  
185 considering both the crime and the defendant; and

186 (d) Should one or more of the aggravating circumstances  
187 be found invalid on appeal, the Mississippi Supreme Court shall  
188 determine whether the remaining aggravating circumstances are  
189 outweighed by the mitigating circumstances or whether the  
190 inclusion of any invalid circumstance was harmless error, or both.

191 (4) Both the defendant and the state shall have the right to

192 submit briefs within the time provided by the court, and to  
193 present oral argument to the court.

194 (5) The court shall include in its decision a reference to  
195 those similar cases which it took into consideration. In addition  
196 to its authority regarding correction of errors, the court, with  
197 regard to review of death sentences, shall be authorized to:

198 (a) Affirm the sentence of death;

199 (b) Reweigh the remaining aggravating circumstances  
200 against the mitigating circumstances should one or more of the  
201 aggravating circumstances be found to be invalid, and (i) affirm  
202 the sentence of death or (ii) hold the error in the sentence phase  
203 harmless error and affirm the sentence of death or (iii) remand  
204 the case for a new sentencing hearing; or

205 (c) Set the sentence aside and remand the case for  
206 modification of the sentence to imprisonment for life.

207 (6) The sentence review shall be in addition to direct  
208 appeal, if taken, and the review and appeal shall be consolidated  
209 for consideration. The court shall render its decision on legal  
210 errors enumerated, the factual substantiation of the verdict, and  
211 the validity of the sentence.

212 \* \* \*

213 SECTION 12. Section 99-39-5, Mississippi Code of 1972, is  
214 amended as follows:

215 99-39-5. (1) Any prisoner in custody under sentence of a  
216 court of record of the State of Mississippi who claims:

217 (a) That the conviction or the sentence was imposed in  
218 violation of the Constitution of the United States or the  
219 Constitution or laws of Mississippi;

220 (b) That the trial court was without jurisdiction to  
221 impose sentence;

222 (c) That the statute under which the conviction and/or  
223 sentence was obtained is unconstitutional;

224 (d) That the sentence exceeds the maximum authorized by  
225 law;

226 (e) That there exists evidence of material facts, not

227 previously presented and heard, that requires vacation of the  
228 conviction or sentence in the interest of justice;

229 (f) That his plea was made involuntarily;

230 (g) That his sentence has expired; his probation,  
231 parole or conditional release unlawfully revoked; or he is  
232 otherwise unlawfully held in custody;

233 (h) That he is entitled to an out-of-time appeal; or

234 (i) That the conviction or sentence is otherwise  
235 subject to collateral attack upon any grounds of alleged error  
236 heretofore available under any common law, statutory or other  
237 writ, motion, petition, proceeding or remedy; may file a motion to  
238 vacate, set aside or correct the judgment or sentence, or for an  
239 out-of-time appeal.

240 (2) A motion for relief under this chapter shall be made  
241 within three (3) years after the time in which the prisoner's  
242 direct appeal is ruled upon by the Supreme Court of Mississippi  
243 or, in case no appeal is taken, within three (3) years after the  
244 time for taking an appeal from the judgment of conviction or  
245 sentence has expired, or in case of a guilty plea, within three  
246 (3) years after entry of the judgment of conviction. Excepted  
247 from this three-year statute of limitations are those cases in  
248 which the prisoner can demonstrate either that there has been an  
249 intervening decision of the Supreme Court of either the State of  
250 Mississippi or the United States which would have actually  
251 adversely affected the outcome of his conviction or sentence or  
252 that he has evidence, not reasonably discoverable at the time of  
253 trial, which is of such nature that it would be practically  
254 conclusive that had such been introduced at trial it would have  
255 caused a different result in the conviction or sentence. Likewise  
256 excepted are those cases in which the prisoner claims that his  
257 sentence has expired or his probation, parole or conditional  
258 release has been unlawfully revoked. Likewise excepted are  
259 filings for post-conviction relief in capital cases which shall be  
260 made within one (1) year after conviction.

261 (3) This motion is not a substitute for, nor does it affect,

262 any remedy incident to the proceeding in the trial court, or  
263 direct review of the conviction or sentence.

264 (4) Proceedings under this chapter shall be subject to the  
265 provisions of Section 99-19-42.

266 SECTION 13. Section 99-39-23, Mississippi Code of 1972, is  
267 amended as follows:

268 99-39-23. (1) If an evidentiary hearing is required the  
269 judge may appoint counsel for a petitioner who qualifies for the  
270 appointment of counsel under Section 99-15-15, Mississippi Code of  
271 1972.

272 (2) The hearing shall be conducted as promptly as  
273 practicable, having regard for the need of counsel for both  
274 parties for adequate time for investigation and preparation.

275 (3) The parties shall be entitled to subpoena witnesses and  
276 compel their attendance, including, but not being limited to,  
277 subpoenas duces tecum.

278 (4) The court may receive proof by affidavits, depositions,  
279 oral testimony or other evidence and may order the prisoner  
280 brought before it for the hearing.

281 (5) If the court finds in favor of the prisoner, it shall  
282 enter an appropriate order with respect to the conviction or  
283 sentence under attack, and any supplementary orders as to  
284 rearraignment, retrial, custody, bail, discharge, correction of  
285 sentence or other matters that may be necessary and proper. The  
286 court shall make specific findings of fact, and state expressly  
287 its conclusions of law, relating to each issue presented.

288 (6) The order as provided in subsection (5) of this section  
289 or any order dismissing the prisoner's motion or otherwise denying  
290 relief under this chapter is a final judgment and shall be  
291 conclusive until reversed. It shall be a bar to a second or  
292 successive motion under this chapter. Excepted from this  
293 prohibition is a motion filed pursuant to Section 99-19-57(2),  
294 Mississippi Code of 1972, raising the issue of the convict's  
295 supervening insanity prior to the execution of a sentence of  
296 death. A dismissal or denial of a motion relating to insanity



297 under Section 99-19-57(2), Mississippi Code of 1972, shall be res  
298 judicata on the issue and shall likewise bar any second or  
299 successive motions on the issue. Likewise excepted from this  
300 prohibition are those cases in which the prisoner can demonstrate  
301 either that there has been an intervening decision of the Supreme  
302 Court of either the State of Mississippi or the United States  
303 which would have actually adversely affected the outcome of his  
304 conviction or sentence or that he has evidence, not reasonably  
305 discoverable at the time of trial, which is of such nature that it  
306 would be practically conclusive that had such been introduced at  
307 trial it would have caused a different result in the conviction or  
308 sentence. Likewise excepted are those cases in which the prisoner  
309 claims that his sentence has expired or his probation, parole or  
310 conditional release has been unlawfully revoked.

311 (7) No relief shall be granted under this chapter unless the  
312 prisoner proves by a preponderance of the evidence that he is  
313 entitled to such.

314 (8) Proceedings under this section shall be subject to the  
315 provisions of Section 99-19-42.

316 (9) In cases resulting in a sentence of death and upon a  
317 determination of indigence, appointment of post-conviction counsel  
318 shall be made by the Office of Capital Post-Conviction Counsel  
319 upon order entered by the Supreme Court promptly upon announcement  
320 of the decision on direct appeal affirming the sentence of death.  
321 The order shall direct the trial court to immediately determine  
322 indigence and whether the inmate will accept counsel.

323 SECTION 14. Section 99-39-27, Mississippi Code of 1972, is  
324 amended as follows:

325 99-39-27. (1) The application for leave to proceed in the  
326 trial court filed with the Supreme Court under Section 99-39-7  
327 shall name the State of Mississippi as the respondent.

328 (2) The application shall contain the original and two (2)  
329 executed copies of the motion proposed to be filed in the trial  
330 court together with such other supporting pleadings and  
331 documentation as the Supreme Court by rule may require.

332 (3) The prisoner shall serve an executed copy of the  
333 application upon the Attorney General simultaneously with the  
334 filing of the application with the court.

335 (4) The original motion, together with all files, records,  
336 transcripts and correspondence relating to the judgment under  
337 attack, shall promptly be examined by the court.

338 (5) Unless it appears from the face of the application,  
339 motion, exhibits and the prior record that the claims presented by  
340 such are not procedurally barred under Section 99-39-21 and that  
341 they further present a substantial showing of the denial of a  
342 state or federal right, the court shall by appropriate order deny  
343 the application. The court may, in its discretion, require the  
344 Attorney General upon sufficient notice to respond to the  
345 application.

346 (6) The court upon satisfaction of the standards set forth  
347 in this chapter is empowered to grant the application.

348 (7) In granting the application the court, in its  
349 discretion, may:

350 (a) Where sufficient facts exist from the face of the  
351 application, motion, exhibits, the prior record and the state's  
352 response, together with any exhibits submitted therewith, or upon  
353 stipulation of the parties, grant or deny any or all relief  
354 requested in the attached motion.

355 (b) Allow the filing of the motion in the trial court  
356 for further proceedings under Sections 99-39-13 through 99-39-23.

357 (8) No application or relief shall be granted without the  
358 Attorney General being given at least five (5) days to respond.

359 (9) The dismissal or denial of an application under this  
360 section is a final judgment and shall be a bar to a second or  
361 successive application under this chapter. Excepted from this  
362 prohibition is an application filed pursuant to Section  
363 99-19-57(2), Mississippi Code of 1972, raising the issue of the  
364 convict's supervening insanity prior to the execution of a  
365 sentence of death. A dismissal or denial of an application  
366 relating to insanity under Section 99-19-57(2), Mississippi Code

367 of 1972, shall be res judicata on the issue and shall likewise bar  
368 any second or successive applications on the issue. Likewise  
369 excepted from this prohibition are those cases in which the  
370 prisoner can demonstrate either that there has been an intervening  
371 decision of the Supreme Court of either the State of Mississippi  
372 or the United States which would have actually adversely affected  
373 the outcome of his conviction or sentence or that he has evidence,  
374 not reasonably discoverable at the time of trial, which is of such  
375 nature that it would be practically conclusive that had such been  
376 introduced at trial it would have caused a different result in the  
377 conviction or sentence. Likewise exempted are those cases in  
378 which the prisoner claims that his sentence has expired or his  
379 probation, parole or conditional release has been unlawfully  
380 revoked.

381 (10) Proceedings under this section shall be subject to the  
382 provisions of Section 99-19-42.

383 (11) Post-conviction proceedings wherein the defendant is  
384 under sentence of death shall be governed by rules established by  
385 the Supreme Court as well as the provisions of this section.

386 SECTION 16. The following shall be codified as Section  
387 99-15-18, Mississippi Code of 1972:

388 99-15-18. (1) Counsel employed by an office funded by the  
389 State of Mississippi or any county shall receive no compensation  
390 or expenses for representation of a party seeking post-conviction  
391 relief while under a sentence of death other than the compensation  
392 attendant to his office.

393 (2) Unless employed by such an office, counsel appointed to  
394 represent a party seeking post-conviction relief while under a  
395 sentence of death shall be paid at an hourly rate not to exceed  
396 eighty percent (80%) of the hourly rate allowed in the United  
397 States District Courts of the Northern and Southern Districts of  
398 Mississippi to attorneys appointed to represent defendants seeking  
399 habeas corpus relief. Money shall not be paid to court appointed  
400 counsel unless either (a) a petition is timely filed, or (b) if a  
401 petition is not filed, a notice is timely filed stating that

402 counsel has reviewed the record and found no meritorious claim.  
403 Prior to payment of any fees in a case in excess of Seven Thousand  
404 Five Hundred Dollars (\$7,500.00) or expenses of investigation and  
405 experts in excess of Two Thousand Five Hundred Dollars  
406 (\$2,500.00), the application for such fees and expenses will be  
407 submitted to the Supreme Court for review of the award of the  
408 convicting court. If counsel believes that the court has failed  
409 to allow reasonable compensation, counsel may petition the Supreme  
410 Court for review. If counsel is appointed in successive  
411 post-conviction proceedings, such counsel shall receive reasonable  
412 compensation considering the services performed.

413 (3) The trial court shall also, upon petition by the party  
414 seeking post-conviction relief, authorize additional monies to pay  
415 for investigative and expert services that are reasonably  
416 necessary to adequately litigate the post-conviction claims. The  
417 initial petition for such expenses shall present a credible  
418 estimate of anticipated expenses, and such estimate shall be  
419 updated from time to time as needed to inform the court of the  
420 status of such expenses. Payment of such expenses shall be made  
421 from funds in the Special Capital Post-Conviction Counsel Fund.

422 SECTION 16. The following shall be codified as Section  
423 99-39-28, Mississippi Code of 1972:

424 99-39-28. If application to proceed in the trial court is  
425 granted, post-conviction proceedings on cases where the death  
426 penalty has been imposed in the trial court and appeals from the  
427 trial court shall be conducted in accordance with rules  
428 established by the Supreme Court.

429 SECTION 17. When judgment of death becomes final and a writ  
430 of certiorari to the United States Supreme Court has been denied  
431 or the time for filing such petition has expired, the court shall  
432 set an execution date for a person sentenced to the death penalty.

433 Within sixty (60) days following the appointment of  
434 post-conviction counsel, upon declaration by counsel that he deems  
435 post-conviction review to be meritorious and that he intends to  
436 file an application for post-conviction review, the court may stay

437 execution pending the disposition of the post-conviction  
438 proceeding. In the event no application for post-conviction  
439 relief is filed within one (1) year of the date of the disposition  
440 of the petition for writ of certiorari or the time for certiorari  
441 has expired, any stay entered by the court will automatically  
442 vacate. The filing of a declaration by counsel that he deems  
443 post-conviction review to be meritorious and intends to file an  
444 application for post-conviction review shall in no manner  
445 constitute the filing of an application for post-conviction review  
446 that would toll the running of any statute of limitations.  
447 Setting or resetting the date of execution shall be made on motion  
448 of the state that all state and federal remedies have been  
449 exhausted, or that the defendant has failed to file for further  
450 state or federal review within the time allowed by law.

451 SECTION 18. Section 99-19-49, Mississippi Code of 1972,  
452 which provides for the setting of a day for the execution of a  
453 death sentence, is repealed.

454 SECTION 19. This act shall take effect and be in force from  
455 and after July 1, 2000.

**Further, amend by striking the title in its entirety and  
inserting in lieu thereof the following:**

1 AN ACT TO CREATE THE MISSISSIPPI CAPITAL POST-CONVICTION  
2 COUNSEL ACT; TO CREATE THE MISSISSIPPI OFFICE OF CAPITAL  
3 POST-CONVICTION COUNSEL AND SPECIFY ITS PERSONNEL; TO PROVIDE  
4 QUALIFICATIONS FOR ATTORNEYS IN THE OFFICE; TO PRESCRIBE THE  
5 DUTIES OF ATTORNEYS IN THE OFFICE; TO PROVIDE FOR COMPENSATION; TO  
6 SPECIFY OFFICE HOURS; TO AUTHORIZE THE DIRECTOR TO ACQUIRE OFFICE  
7 SPACE, SUPPLIES AND EQUIPMENT; TO REQUIRE THE DIRECTOR TO MAINTAIN  
8 A DOCKET; TO AUTHORIZE THE APPOINTMENT OF ATTORNEYS IN SITUATIONS  
9 WHERE CONFLICTS ARISE; TO CREATE THE SPECIAL CAPITAL  
10 POST-CONVICTION COUNSEL FUND; TO PROVIDE THAT ATTORNEYS APPOINTED  
11 TO THE OFFICE SHALL BE FULL TIME; TO AMEND SECTION 99-19-105,  
12 MISSISSIPPI CODE OF 1972, TO REVISE THE SETTING OF THE DATE OF  
13 EXECUTION OF DEATH SENTENCE; TO AMEND SECTION 99-39-5, MISSISSIPPI  
14 CODE OF 1972, TO REVISE THE STATUTE OF LIMITATIONS FOR  
15 POST-CONVICTION RELIEF IN CAPITAL CASES; TO AMEND SECTION  
16 99-39-23, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR THE APPOINTMENT  
17 OF POST-CONVICTION COUNSEL IN CAPITAL CASES; TO AMEND SECTION  
18 99-39-27, MISSISSIPPI CODE OF 1972, TO EXCLUDE POST-CONVICTION  
19 RELIEF IN CAPITAL CASES; TO CREATE SECTION 99-15-18, MISSISSIPPI  
20 CODE OF 1972, TO PROVIDE FOR COMPENSATION OF COUNSEL IN  
21 POST-CONVICTION RELIEF CASES INVOLVING THE DEATH PENALTY; TO  
22 CREATE SECTION 99-39-28, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT  
23 THE SUPREME COURT SHALL PROVIDE RULES FOR POST-CONVICTION  
24 PROCEEDINGS IN CAPITAL CASES; TO PROVIDE FOR THE SETTING OF THE  
25 DATE FOR EXECUTION OF DEATH SENTENCES; TO REPEAL SECTION 99-19-49,

26MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR THE SETTING OF A DAY  
27FOR THE EXECUTION OF A DEATH SENTENCE; AND FOR RELATED PURPOSES.