

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

**AMENDMENT No. 1 PROPOSED TO**

**Senate Bill NO. 2911**

**By Representative(s) Committee**

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

SECTION 1. Section 99-15-18, Mississippi Code of 1972, is  
amended as follows:

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

(2) Unless employed by such an office, counsel appointed to  
represent a party seeking post-conviction relief while under a  
sentence of death shall be paid at an hourly rate not to exceed  
eighty percent (80%) of the hourly rate allowed in the United  
States District Courts of the Northern and Southern Districts of  
Mississippi to attorneys appointed to represent defendants seeking  
habeas corpus relief. \* \* \*

(3) Counsel shall submit to the trial court, once each  
month, an interim invoice. Compensation earned and reimbursable  
expenses incurred each month shall be claimed on an interim

invoice submitted not later than the fifteenth day of the  
following month, or the first business day thereafter. All  
interim vouchers shall be supported by detailed and itemized time  
and expense statements. The trial court shall review the interim  
invoices when submitted and will authorize compensation to be paid  
for seventy-five percent (75%) of the approved number of hours.  
The court shall also authorize for payment all reimbursable  
expenses, including fees and expenses of experts and of  
investigators, reasonably incurred. At the conclusion of the  
state-paid post-conviction representation, counsel shall submit a  
final voucher seeking payment for representation provided during  
the final interim period. The final invoice shall also set forth  
in detail the time and expenses claimed for the entire case,  
including all documentation. Counsel shall reflect all  
compensation and reimbursement previously received on the  
appropriate line of the final invoice. Upon review and approval  
of the final invoice, the trial court shall authorize compensation  
to be paid for the approved number of hours provided during the  
final interim period, for all reasonable expenses reasonably  
incurred during the final interim period, and for the withheld  
twenty-five percent (25%) of hours approved in prior interim  
periods.

(4) All interim invoices will be maintained under seal  
during the pendency of state post-conviction proceedings. Upon  
submission by defendant's counsel of a final invoice, the trial  
court shall unseal the interim invoices unless the trial court  
determines that petitioner's interest requires a limited  
disclosure. In determining whether limited disclosure is  
appropriate, the trial court shall consider the need: (a) to  
protect the petitioner's Fifth Amendment right against

self-incrimination; (b) to protect the petitioner's Sixth Amendment right to effective assistance of counsel; (c) the petitioner's attorney-client privilege; (d) the work product privilege of the petitioner's counsel; (e) the safety of any person; (f) whether petitioner intends to seek federal habeas corpus relief; and (g) any other interest that justice may require.

(5) Prior to payment of any fees in a case in excess of Seven Thousand Five Hundred Dollars (\$7,500.00) or expenses of investigation and experts in excess of Two Thousand Five Hundred Dollars (\$2,500.00), the application for such fees and expenses will be submitted to the Supreme Court for review of the award of the convicting court. If counsel believes that the court has failed to allow reasonable compensation, counsel may petition the Supreme Court for review. If counsel is appointed in successive post-conviction proceedings, such counsel shall receive reasonable compensation considering the services performed.

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

SECTION 2. Section 99-39-103, Mississippi Code of 1972, is amended as follows:

99-39-103. There is created the Mississippi Office of Capital Post-Conviction Counsel. This office shall consist of

84 three (3) attorneys, one (1) investigator, one (1) fiscal officer  
85 and one (1) secretary/paralegal. One of the attorneys shall serve  
86 as director of the office. The director shall be appointed by the  
87 Chief Justice of the Supreme Court with the approval of a majority  
88 of the justices voting, for a term of four (4) years, or until a  
89 successor takes office. The remaining attorneys and other staff  
90 shall be appointed by the director of the office and shall serve  
91 at the will and pleasure of the director. The director and all  
92 other attorneys in the office shall either be active members of  
93 The Mississippi Bar, or, if a member in good standing of the bar  
94 of another jurisdiction, must apply to and secure admission to The  
95 Mississippi Bar within twelve (12) months of the commencement of  
96 the person's employment by the office. At least three (3) of the  
97 attorneys in the office shall meet all qualifications necessary to  
98 serve as post-conviction counsel for persons under a sentence of  
99 death. The director may be removed from office by the Chief  
100 Justice upon finding that the director is not qualified under law  
101 to serve as post-conviction counsel for persons under sentences of  
102 death, has failed to perform the duties of the office or has acted  
103 beyond the scope of the authority granted by law for the office.

104 SECTION 3. This act shall take effect and be in force from  
105 and after July 1, 2001.

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

1 AN ACT TO AMEND SECTION 99-15-18, MISSISSIPPI CODE OF 1972,  
2 TO REVISE THE MANNER OF PAYMENT OF EXPENSES OF DEFENSE COUNSEL; TO  
3 AMEND SECTION 99-39-103, MISSISSIPPI CODE OF 1972, TO REVISE THE  
4 QUALIFICATIONS OF THE PERSONNEL OF THE OFFICE; AND FOR RELATED  
5 PURPOSES.