

By: Representative Bell (65th)

To: Judiciary B

HOUSE BILL NO. 1218

1 AN ACT TO AMEND SECTION 99-39-107, MISSISSIPPI CODE OF 1972,
2 TO CLARIFY THE PRACTICE LIMITATIONS OF THE OFFICE OF CAPITAL
3 POST-CONVICTION; AND FOR RELATED PURPOSES.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

5 **SECTION 1.** Section 99-39-107, Mississippi Code of 1972, is
6 amended as follows:

7 99-39-107. The Office of Capital Post-Conviction Counsel
8 shall * * * represent of inmates under sentence of death in
9 post-conviction proceedings and ancillary matters related directly
10 to post-conviction review of their convictions and sentences and
11 other activities explicitly authorized in statute. The Office of
12 Capital Post-Conviction Counsel also may represent indigent
13 parties not sentenced to death in post-conviction if the director
14 determines that there is a statutorily alive claim ripe for
15 post-conviction review and that the office has the resources to
16 undertake the representation. Representation by the office or by
17 private counsel under appointment by the office will end upon the
18 filing of proceeding for federal habeas corpus review or for

19 appointment of counsel to represent the defendant in federal
20 habeas corpus proceedings. However, the office may continue
21 representation in federal habeas corpus proceedings. In capital
22 cases, * * * the office or a staff attorney employed by the office
23 shall be appointed by a federal court to represent the inmate in
24 federal habeas corpus proceedings. In such event, the office or
25 the employee attorney shall apply to the federal court for
26 compensation and expenses and shall upon receipt of payments by
27 the federal court pay all sums received over to the office for
28 deposit in the Special Capital Post-Conviction Counsel Fund as
29 provided in Section 99-39-117, from which all expenses for
30 investigation and litigation shall be disbursed. Representation
31 in post-conviction proceedings shall further include
32 representation of the inmate from the exhaustion of all state and
33 federal post-conviction litigation until execution of the sentence
34 or an adjudication resulting in either a new trial or a vacation
35 of the death sentence. The attorneys appointed to serve in the
36 Office of Capital Post-Conviction Counsel shall devote their
37 entire time to the duties of the office, shall not represent any
38 persons in other litigation, civil or criminal, nor in any other
39 way engage in the practice of law, and shall in no manner,
40 directly or indirectly, participate in the trial of any person
41 charged with capital murder or direct appeal of any person under
42 sentence of death in the state, nor engage in lobbying activities
43 for or against the death penalty. Any violation of this provision



44 shall be grounds for termination from employment, in the case of
45 the director, by the Governor, and in the case of other attorneys,
46 by the director, with approval of the Chief Justice.

47 **SECTION 2.** This act shall take effect and be in force from
48 and after July 1, 2025.

