

Post-Conviction Expert Funding in Other States with Capital Punishment

Most states with capital punishment regimes that provide assistance with expert funding to indigent post-conviction petitioners administer their reimbursement structure through trial courts, state agencies, or directly via Supreme Court review. While other states delegate expert funding decisions in post-conviction cases to these state agencies, those decisions are often subject to some form of appellate review. The agencies are often specialized in the fields of criminal law, post-conviction procedure, or capital proceedings.

State	Relevant Citations	Notes
Alabama	<ul style="list-style-type: none">• <i>White v. State</i>, 343 So. 3d 1150, 1164 (Ala. Crim. App. 2019) (no right to hire experts in post-conviction litigation under Alabama Rules, affirming circuit court’s denial of expert funding motion);• <i>Holladay v. State</i>, 629 So. 2d 673, 688 (Ala. Crim. App. 1992) (appeal following trial court grant of expert funding motion in post-conviction);• Ala. Admin. Code 355-9-1-.07 (expert expense compensation protocol for indigent defendants generally; disputes as to attorney’s fees can be appealed to the State Board of Adjustment, per Section 355-9-1-.05).	Alabama does not appear to have a statutory or rule-based mechanism to fund experts in post-conviction cases, but where such motions are denied, they are subject to the normal process of appellate review following denial of the merits petition. Indigent fee disputes under the Administrative Code can be appealed under an administrative process.

<p>Arizona</p>	<ul style="list-style-type: none"> • Ariz. Rev. Stat. Ann. § 13-4041 at § I (“The trial court may authorize additional monies to pay for investigative and expert services that are reasonably necessary to adequately litigate those claims that are not precluded by § 13-4232.”) (statute applies to post-conviction cases); • Ariz. Rev. Stat. Ann. § 13-4041 at § H (“The county shall request reimbursement for fees it incurs pursuant to subsections F, G and I of this section arising out of the appointment of counsel to represent an indigent capital defendant in a state post-conviction relief proceeding. The state shall pay a portion of the fees incurred by the county out of monies appropriated to the supreme court for these purposes. The total amount that may be spent in any fiscal year by this state for indigent capital defense in a state post-conviction relief proceeding may not exceed the amount appropriated in the general 	<p>Arizona offers funding for experts in post-conviction cases, and funding is administered locally by trial courts and counties.</p>
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	<p>appropriations act for this purpose, together with additional amounts appropriated by any special legislative appropriation for indigent capital defense. The supreme court shall approve county requests for reimbursement after certification that the amount requested is owed.”);</p> <ul style="list-style-type: none"> • Ariz. R. Crim. P. 32.5(c) (“On application and if the trial court finds that such assistance is reasonably necessary for an indigent defendant, it may appoint an investigator, expert witnesses, and a mitigation specialist, or any combination of them, under Rule 6.7.”). 	
Arkansas	<ul style="list-style-type: none"> • Ark. R. Crim. P. 37.5(j) (“Compensation to be paid to attorneys appointed under this rule, as well as the fees and expenses to be paid for investigative, expert, and other reasonably necessary services, shall be fixed by the circuit and appellate courts in their respective proceedings at such rates 	Arkansas provides for the payment of “all” reasonable expenses once the circuit and appellate courts fix compensation levels for experts.

	<p>or amounts as the courts determine to be reasonable. All compensation and reasonable expenses authorized by the courts shall be paid pursuant to Ark. Code Ann. § 16-91-202(f), or as otherwise provided by law.”) (capital post-conviction cases);</p> <ul style="list-style-type: none"> • Ark. Code Ann. § 16-91-202(f)(2) (“All compensation and reasonable expenses authorized by the circuit court pursuant to this subchapter shall be paid by the commission.”) (includes expert funding; “commission” references the Arkansas Public Defender Commission) 	
California	<ul style="list-style-type: none"> • Cal. Gov’t Code § 68666(b) (California Supreme Court can set guideline limitations of expenses for capital post-conviction proceedings up to \$50,000 without an order to show cause, payment within 60 days of submission); • California Supreme Court Counsel Payment Guidelines for Indigent Criminal Appellants, Guideline 3 at § B (prior approval required for 	California’s Supreme Court directly administers funding for capital post-convictions.

	<p>expert witnesses, but noting a different guideline applies for capital cases; noting also in Section C(7)(c) that compensation beyond the maximum can be paid with Supreme Court approval)¹;</p> <ul style="list-style-type: none">• California Supreme Court Policy 3. Standards Governing Filing of Habeas Corpus Petitions and Compensation of Counsel in Relation to Such Petitions at § 2-8.2 (“Counsel should seek and obtain from this court prior approval for all investigation and witness expenses, including, but not limited to, investigator fees and costs, expert fees and costs, and expert witness fees and costs.”)².	
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¹ Available at https://www.courts.ca.gov/documents/Payment_Guidelines.pdf.

² Available at https://supreme.courts.ca.gov/sites/default/files/supremecourt/default/2021-10/Policy_3_Standard_2_-_Compensation_Standards.pdf.

Colorado	<ul style="list-style-type: none"> • Colo. Rev. Stat. Ann. § 16-12-205(6) (“The office of the public defender or the office of alternate defense counsel, created in section 21-2-101, C.R.S., whichever is appropriate, shall pay the compensation and reasonable litigation expenses of defendant’s counsel incurred during the unitary review proceeding.”) (post-conviction in capital cases). 	<p>In 2020, Colorado abolished capital punishment prospectively, and the Governor commuted the sentences of those remaining on the State’s death row.</p>
Florida	<ul style="list-style-type: none"> • Fla. Stat. Ann. § 27.711(6) (“An attorney who represents a capital defendant is entitled to a maximum of \$15,000 for miscellaneous expenses, such as the costs of preparing transcripts, compensating expert witnesses, and copying documents. Upon approval by the trial court, the attorney is entitled to payment by the Justice Administrative Commission of up to \$15,000 for miscellaneous expenses, except that, if the trial court finds that extraordinary circumstances exist, the attorney is entitled to payment in excess of \$15,000.”) (statute titled, “Terms and 	<p>Florida not only has a Commission that may object to motions seeking fees, but the full Florida Supreme Court regularly hears appeals regarding those fees. <i>E.g., Cartenuto v. Just. Admin. Comm’n</i>, 260 So. 3d 908, 909 (Fla. 2018) (post-conviction capital proceeding fee dispute).</p>

	<p>conditions of appointment of attorneys as counsel in post-conviction capital collateral proceedings”);</p> <ul style="list-style-type: none">• Fla. Stat. Ann. § 27.711(13) (counsel must file motion for expenses with Justice Administrative Commission, which may object; Commission has standing to appear in court to contest the motion);• <i>Cartenuto v. Just. Admin. Comm’n</i>, 260 So. 3d 908, 909 (Fla. 2018) (in capital post-conviction proceeding, JAC objected that fees exceed statutory cap; Florida Supreme Court reversed);• <i>McClain v. Atwater</i>, 110 So. 3d 892, 899–900 (Fla. 2013) (appointed counsel in capital post-conviction case was entitled to reimbursement for fees in excess of statutory maximum).	
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Georgia	<ul style="list-style-type: none"> • <i>Johnson v. Zant</i>, 295 S.E.2d 63, 70 (1982) (“We have ruled many times that one who petitions for a writ of habeas corpus is not constitutionally entitled to funds for investigation or litigation relating to his petition.”); • <i>State v. Davis</i>, 269 S.E.2d 461, 463 (Ga. 1980) (no right to expenses for indigent capital habeas petitioners); • <i>Willis v. Price</i>, 353 S.E.2d 488, 489 (1987) (same). 	Georgia does not appear to have a statutory or rule-based mechanism to fund experts in post-conviction cases.
Idaho	<ul style="list-style-type: none"> • I.C.R. 44.2(b)(2) (“The trial court must authorize additional payments for expenses incidental to representation (including, but not limited to, investigative, expert and other preparation expenses) necessary to adequately litigate those post-conviction claims that are allowed by Idaho Code § 19-2719, to the same extent as a person having retained his or her own counsel is entitled.”) (capital context; I.C.R. 44.2(b)(3) directs submission of expenses to counties, per Idaho Code Ann. § 31-1501). 	Idaho requires trial courts to authorize expert funding in post-conviction capital cases where those expenses are reasonably necessary to litigate the claims. Counties pay the expenses.

<p>Indiana</p>	<ul style="list-style-type: none"> • Ind. R. Crim. P. 24(C)(2) (“Counsel appointed at an hourly rate in a capital case shall be provided, upon an ex parte showing to the trial court of reasonableness and necessity, with adequate funds for investigative, expert, and other services necessary to prepare and present an adequate defense at every stage of the proceeding, including the sentencing phase. In addition to the hourly rate provided in this rule, all counsel shall be reimbursed for reasonable and necessary incidental expenses approved by the trial judge. Counsel may seek advance authorization from the trial judge, ex parte, for specific incidental expenses.”); • <i>Williams v. State</i>, 808 N.E.2d 652, 658 (Ind. 2004) (“Indiana law provides legal representation and investigation funds to indigent defendants for trial and to indigent prisoners for prosecution of a first post-conviction proceeding.”); 	<p>Indiana’s rules direct trial judges to approve reasonable expenses in capital cases, but it is somewhat unclear if this process applies to post-conviction matters.</p>
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	<ul style="list-style-type: none"> • Ind. Code Ann. § 33-40-6-6 (“The commission shall give priority to certified claims for reimbursement in capital cases. If the balance in the public defense fund is not adequate to fully reimburse all certified claims in noncapital cases, the commission shall prorate reimbursement of certified claims in noncapital cases.”). 	
Kansas	<ul style="list-style-type: none"> • Kan. Stat. Ann. § 22-4506(d)(1)(C) (granting authority to state board of indigents’ defense services to provide rules for “reasonable and necessary litigation expense[s]” associated with collateral attacks on capital murder sentences); • Kan. Admin. Regs. 105-7-1(a) (board approves expert service funding before attorney files it with the court). 	Kansas employs a state board to assist with funding for experts in post-conviction cases.

Kentucky	<ul style="list-style-type: none"> • <i>Commonwealth v. Grise</i>, 558 S.W.3d 923, 924 (Ky. 2018) (Minton, J.) (denying Kentucky’s extraordinary appeal from a trial court’s decision to grant funding for experts in post-conviction, and analyzing Ky. Rev. Stat. Ann. § 31.185 in detail). 	Under Kentucky law, trial courts determine if the services requested are “reasonably necessary,” and counties fund the expenses.
Louisiana	<ul style="list-style-type: none"> • 22 La. Admin. Code Pt XV, § 509(A) (“Counsel appointed in accordance with this rule shall secure all proper and necessary support services, including, but not limited to, investigative, expert, mitigation, and any other support services necessary to prepare and present an adequate defense. An attorney should use all available support services and facilities needed for an effective performance at every stage of the proceedings. Counsel should seek financial and technical assistance from all possible sources, provided expenses are within the guidelines established by the Louisiana Indigent Defense Assistance Board.”) (section applies 	Louisiana’s Administrative Code permits attorneys representing capital post-conviction petitioners to seek expert funding through a contestable process within the Louisiana Indigent Defense Assistance Board. Decisions can be appealed and are made in accordance with ABA Guidelines.

	<p>to capital appellate and post-conviction matters);</p> <ul style="list-style-type: none">• 22 La. Admin. Code Pt XV, § 205 (“The Capital Post-Conviction Program will use the ABA Guidelines for the Appointment and Performance of Defense Counsel in Death Penalty Cases (2003) for evaluation of all applications. Final approval of applications under this provision is subject to the availability of funds.”) (section for review of applications for funding of expert witnesses);• 22 La. Admin. Code Pt XV, § 207(A) (“Should an application for funding under § 205.A be denied in part or full, the applicant has 30 days from the date of the letter notifying applicant of denial to request in writing that the application be reviewed by the director of the Louisiana Indigent Defense Assistance Board.”).	
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Mississippi	<ul style="list-style-type: none"> • Miss. Code. Ann. § 99-15-18(5, 6) (Supreme Court reviews expert funding awards of trial court exceeding \$2,500 cap; trial court can also authorize experts “reasonably necessary to adequately litigate the post-conviction claims”); • Miss. R. App. P. 22(c)(3) (permitting <i>ex parte</i> motions regarding experts to the trial court in capital post-conviction cases); • <i>Garcia v. State</i>, 344 So. 3d 273, 277–78 (Miss. 2022) (dispute over whether Attorney General was entitled to notice and an opportunity to be heard over litigation expenses in capital post-conviction cases, including experts). 	Mississippi’s Supreme Court directly reviews funding awards for experts in post-conviction cases. Payment comes from the Special Capital Post-conviction Counsel Fund.
Missouri	<ul style="list-style-type: none"> • Mo. Sup. Ct. R. 29.16(d) (“As to any counsel appointed as provided in this Rule 29.16, the state public defender shall provide counsel with reasonable compensation and shall provide reasonable and necessary litigation expenses.”) (similar rules discussed in Mo. Sup. Ct. R. 	Missouri delegates expert funding issues to its public defender office.

	<p>29.036(d) and Mo. Ann. Stat. § 547.370(4));</p> <ul style="list-style-type: none"> • Mo. Code Regs. Ann. tit. 18, § 10-4.010(3)(C) (“The state public defender shall have sole discretion in determining whether any request to provide litigation expenses from the public defender budget shall be approved or denied, along with any conditions and/or restrictions determined appropriate for expenditure of public defender funds.”). 	
Montana	<ul style="list-style-type: none"> • Mont. Code Ann. § 46-21-201(3)(e) (“The expenses of counsel assigned pursuant to this subsection (3) must be paid by the office of state public defender.”) (indigent capital post-conviction context; • Montana OPD Practice Standard Section VIII(3) (“In all assigned cases, reasonable compensation for expert witnesses necessary to preparation and presentation of the case shall be provided, subject to prior approval by the Office of the State Public Defender. Expert 	Montana delegates litigation expense funding in post-conviction cases to the public defender’s office.

	witness fees should be maintained and allocated from funds separate from those provided for legal services.”). ³	
Nebraska	<ul style="list-style-type: none"> • Neb. Rev. Stat. Ann. § 29-3004 (“The district court may appoint not to exceed two attorneys to represent the prisoners in all proceedings under sections 29-3001 to 29-3004. The district court, upon hearing the application, shall fix reasonable expenses and fees, and the county board shall allow payment to the attorney or attorneys in the full amount determined by the court. The attorney or attorneys shall be competent and shall provide effective counsel.”) (post-convictions); • <i>State v. Rice</i>, 888 N.W.2d 159, 168 (Neb. 2016) (“Particularly in a case such as the present case, where § 29-3004 requires the court to fix ‘reasonable’ expenses and fees, the trial court has a duty to determine 	Nebraska directs trial courts to make the final decision on expense funding in post-conviction cases.

³ Available at: <https://publicdefender.mt.gov/docs/Standards/8-0.pdf>.

	that expenses and fees requested are in fact reasonable regardless of whether the opposing party objects or presents contrary evidence.”).	
Nevada	<ul style="list-style-type: none"> • Nev. Rev. Stat. Ann. § 7.135(2) (if claim for expert expenses is denied by the Department of Indigent Defense Services or in accordance with the county defense services plan, claim then goes before a judge); • <i>Titus v. State</i>, 425 P.3d 721 (table), 2018 WL 4408875 at *1, n.2 (Nev. 2018) (noting statute applies in post-conviction proceedings). 	Nevada’s Indigent Defense Services Department can deny a request for expert services in a post-conviction case, but the decision is then subject to judicial review.
North Carolina	<ul style="list-style-type: none"> • N.C. Gen. Stat. Ann. § 7A-498.5(c)(6) (directs Office of Indigent Defense Services to promulgate rules for expert compensation); • N.C. Indigent Defense Services Rule 2D.4 (“Defense counsel may apply to a court for appointment of experts or for other expenses following disapproval by the IDS Director but before incurring a financial obligation for which defense counsel 	North Carolina directs the Office of Indigent Defense Services to handle expert funding requests in capital post-conviction cases, and following a denial, counsel can file a motion with the court.

	<p>will apply for payment by the IDS Office.”)⁴;</p> <ul style="list-style-type: none"> • N.C. Indigent Defense Services Expert Requests & Spending Policy (“When an attorney submits a request for expert funding in a capital post-conviction case, it must include enough information for the IDS Director to determine whether the request is reasonable and funding is justified.”)⁵. 	
Ohio	<ul style="list-style-type: none"> • Ohio Crim. R. 42(E)(1, 4) (trial court is appropriate authority for all experts for indigent defendants in post-conviction review of capital cases, and the appeal of an order regarding the appointment of experts is subject to an accelerated appellate processing procedure); • <i>State v. Powell</i>, 148 N.E.3d 51, 64 (Ohio Ct. App. 2019) (holding a trial court’s order denying expert funding under Ohio Crim. R. 42(E) is a final, 	Ohio directs all appeals from orders regarding experts in post-conviction capital cases to be heard on an expedited basis.

⁴ Available at <https://www.ncids.org/wp-content/uploads/2021/03/IDS-Rules-Part-2.pdf>.

⁵ Available at <https://www.ncids.org/wp-content/uploads/2021/04/Expert-requests-spending-pc.pdf>; see also <https://www.ncids.org/wp-content/uploads/2021/04/Expert-fees-memo.pdf>.

	<p>appealable order, but finding requested expert funding in petitioner’s motion was not justified);</p> <ul style="list-style-type: none"> • <i>State v. Bays</i>, 824 N.E.2d 167, 172 (Ohio Ct. App. 2005) (reversing trial court’s decision to deny motion for expert funding during a capital post-conviction case). 	
Oklahoma	<ul style="list-style-type: none"> • Okla. Stat. Ann. tit. 22, § 1360(A) (“The System shall represent indigents in proceedings for postconviction relief in all capital cases.”); • Okla. Stat. Ann. tit. 22, § 1355.4(D)(1) (“Any attorney appointed or assigned cases in accordance with the Indigent Defense Act may request expert services from the list of experts maintained by the Executive Director. The Executive Director or designee may, in said person’s sole discretion, approve requests for expert services; provided, however, that nothing contained in the Indigent Defense Act shall be 	Oklahoma delegates to the Director of the Indigent Defense System discretion to approve expert funds.

	<p>construed to render the Executive Director a member of the defense team in any System client’s case for strategic purposes.”).</p>	
Oregon	<ul style="list-style-type: none"> • Or. Rev. Stat. Ann. § 138.590(6) (“When a petitioner has been ordered to proceed as a financially eligible person, the expenses which are necessary for the proceedings upon the petition in the circuit court and the compensation to appointed counsel for petitioner as provided in this subsection shall be paid by the public defense services executive director from funds available for the purpose. At the conclusion of proceedings on a petition pursuant to ORS 138.510 to 138.680, the public defense services executive director shall determine and pay, as provided by the policies, procedures, standards and guidelines of the Public Defense Services Commission, the amount of expenses of petitioner and compensation for the services of 	Oregon permits appeals from denials of expert funding decisions by the Director of the Office of Public Defense Services to a court.

	<p>appointed counsel in the proceedings in the circuit court.”);</p> <ul style="list-style-type: none"> • Oregon Performance Standards for Post-Conviction Relief Practitioners Standard 6.4(2) (“Counsel should seek the assistance of qualified investigators and expert witnesses where necessary for the investigation, preparation, and presentation of the case. For petitioners determined to be financially eligible, counsel should seek preauthorization for these expenses from the Office of Public Defense Services, pursuant to ORS 135.055.”)⁶; • Or. Rev. Stat. Ann. § 135.055(8) (“If the public defense services executive director denies, in whole or in part, fees and expenses submitted for review and payment, the person who submitted the payment request may appeal the decision to the presiding judge of the circuit court. The presiding judge or 	
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⁶ Available at: <https://www.osbar.org/docs/resources/ConvictionReliefProceedings/CSPCRP3.pdf>.

	<p>the designee of the presiding judge shall review the public defense services executive director’s decision for abuse of discretion. The decision of the presiding judge or the designee of the presiding judge is final.”).</p>	
<p>Pennsylvania</p>	<ul style="list-style-type: none"> • <i>Commonwealth v. Jarosz</i>, 152 A.3d 344, 354 (Pa. Super. Ct. 2016) (“If an expert’s testimony is necessary to establish that an appellant is entitled to relief in his PCRA Petition, the PCRA court may appoint an expert. The decision on whether to appoint an expert witness is within the sound discretion of the PCRA court.”); • PA. LEGISLATIVE BUDGET AND FINANCE COMMITTEE, <i>Pennsylvania Indigent Criminal Defense Services Funding and Caseloads</i> 16 (“Historically, Pennsylvania indigent criminal defense services mandated under the U.S. Constitution and Pennsylvania Constitution have been and continue to be provided for by a 	<p>Pennsylvania does not appear to have a centralized system for seeking expert expenses in post-conviction cases.</p>

	<p>purely localized system where funding and management of indigent criminal defense services are exclusively provided for at the county level.”⁷.</p>	
South Carolina	<ul style="list-style-type: none"> • S.C. Code Ann. § 17-27-160(B) (linking post-conviction funding to indigent defense statute); • S.C. Code Ann. § 16-3-26(C)(1, 2) (court authorizes expert funding from funds available at Office of Indigent Defense in capital cases); • S.C. Code Ann. § 17-3-50(B) (“Upon a finding in ex parte proceedings that investigative, expert, or other services are reasonably necessary for the representation of the defendant, the court shall authorize the defendant’s attorney to obtain such services on behalf of the defendant and shall order the payment, from funds available to the Office of Indigent Defense, of fees and expenses not to exceed five hundred dollars as the court 	<p>South Carolina’s Office of Indigent Defense handles funding requests once approved by the trial court.</p>

⁷ Available at: <http://lbfc.legis.state.pa.us/Resources/Documents/Reports/701.pdf>.

	<p>considers appropriate.”) (statute references post-conviction proceedings);</p> <ul style="list-style-type: none"> • Memorandum from Chief Justice Jean Hofer Toal to All Circuit Court Judges (July 8, 2005) (“When requests for...expert...services in excess of the statutory limits are received, circuit court judges should closely examine the need for the services...Judges may wish to ask the Office of Indigent Defense Services to participate in the hearing on the request for additional fees to contribute information concerning fees awarded in similar cases.”);⁸ • Demetrio L. Sears, <i>South Carolina Post-Conviction Relief: Practical Considerations and Procedures from A Prisoner’s Perspective</i>, 64 	
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⁸ Available at:

<https://sccid.sc.gov/docs/Memorandum%20from%20Chief%20Justice%20Toal%20dated%20July%208,%202005%20Ordering%20Additional%20Fees%20for%20Investigative,%20Expert,%20or%20Other%20Services%20for%20Appointed%20Counsel.pdf>.

	S.C. L. REV. 1169, 1243–44 (2013) (discussing expert funding motions).	
South Dakota	<ul style="list-style-type: none"> • S.D. Codified Laws § 21-27-4 (“Such counsel fees or expenses shall be a charge against and be paid by the county from which the person was committed, or for which the person is held as determined by the court. Payment of all such fees or expenses shall be made only upon written order of the court or judge issuing the writ.”) (counsel in habeas corpus matters); • S.D. Codified Laws § 23A-40-8 (“Counsel assigned pursuant to § 23A-40-6 and subdivision 23A-40-7(2) shall, after the disposition of the cause, be paid by the county in which the action is brought, or, in case of a parole revocation, by the county from which the inmate was sentenced, a reasonable and just compensation for his services and for necessary expenses and costs incident to the proceedings in an amount to be fixed by a judge of the circuit court or a magistrate judge 	South Dakota trial courts rule on necessary expenses and costs in collateral proceedings.

	<p>within guidelines established by the presiding judge of the circuit court.”).</p>	
Texas	<ul style="list-style-type: none"> • Tex. Code Crim. Proc. Ann. art. 11.071 § 3(d) (“Counsel may incur expenses for habeas corpus investigation, including expenses for experts, without prior approval by the convicting court or the court of criminal appeals. On presentation of a claim for reimbursement, which may be presented ex parte, the convicting court shall order reimbursement of counsel for expenses, if the expenses are reasonably necessary and reasonably incurred. If the convicting court denies in whole or in part the request for expenses, the court shall briefly state the reasons for the denial in a written order provided to the applicant. The applicant may request reconsideration of the denial for reimbursement by the convicting court.”) (death penalty context for habeas relief); 	Texas trial courts oversee expert funding in collateral proceedings.

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| | <ul style="list-style-type: none">• Tex. Code Crim. Proc. Ann. art. 26.05(d) (“A counsel in a noncapital case, other than an attorney with a public defender’s office, appointed to represent a defendant under this code shall be reimbursed for reasonable and necessary expenses, including expenses for investigation and for mental health and other experts. Expenses incurred with prior court approval shall be reimbursed in the same manner provided for capital cases by Articles 26.052(f) and (g), and expenses incurred without prior court approval shall be reimbursed in the manner provided for capital cases by Article 26.052(h).”) (applies to habeas hearings). | |
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Utah	<ul style="list-style-type: none"> • Utah Code Ann. § 78B-9-202(3)(c) (“The court may authorize litigation expenses up to a maximum of \$20,000. The court may exceed the maximum only upon a showing of good cause as established in Subsections (3)(e) and (f).”) (after the court grants the <i>ex parte</i> motion, district attorney from a different division can respond to the request for excess funds); • Utah Admin. Code r. R25-14-5(2) (Utah Division of Finance can respond to the request, but the trial court must “determine if there is sufficient cause to exceed the total amount in accordance with Section 78B-9-202”); • Utah Admin. Code r. R25-14-1 (funding expressly conditioned on availability of funds). 	Utah trial courts rule on litigation expenses in capital post-conviction cases, and the Division of Finance can respond to the request in court.
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<p>Washington</p>	<ul style="list-style-type: none"> • Wash. R. App. P. 16.27 (in capital personal restraint cases, motion for expert funding must provide a “substantial reason” services will provide a basis for relief, and funding is contingent on legislative approval of such funding; <i>ex parte</i> motion is directed to the Supreme Court); • <i>In re Woods</i>, 114 P.3d 607, 614 (Wash. 2005), <i>abrogated on other grounds by Carey v. Musladin</i>, 549 U.S. 70 (2006) (“In our view, the rules of appellate procedure provide a standard for determining when public funds may be expended for investigative and expert services for indigent petitioners and that standard has been observed.”) (denying expert funding under Wash. R. App. P. 16.27). 	<p>Washington’s Supreme Court unanimously abolished capital punishment in 2018. <i>State v. Gregory</i>, 427 P.3d 621, 636 (Wash. 2018). Prior to that date, the full Washington Supreme Court ruled on <i>ex parte</i> motions for expert funding in capital personal restraint cases.</p>
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Wyoming	<ul style="list-style-type: none">• Wyo. Stat. Ann. § 7-14-104(c) (“An indigent petitioner seeking relief under this act is not entitled to representation by the state public defender or by appointed counsel.”).	Wyoming does not provide counsel in post-conviction matters.
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