

### B. Validity of the Implementing Rule

Some comments challenged the implementing rule for chapter 154, Subpart B of 28 CFR part 26, arguing that it is invalid on procedural and substantive grounds. These criticisms are not well founded and in any event do not bear on this certification. See Br. for Appellants at 28–49 and Reply Br. for Appellants at 15–28, *Habeas Corpus Resource Ctr. v. U.S. Dep't of Justice*, 816 F.3d 1241 (9th Cir. 2016) (No. 14–16928).

### C. Request for a Stay

Some comments asked that I stay my certification of Arizona's mechanism pending judicial review of my determination, arguing the matter on the terms a court would consider in deciding whether to order a stay—likelihood that the determination will be overturned on judicial review, alleged irreparable harm to the commenters and their clients, alleged lack of harm to Arizona and other interested parties, and the public interest. Chapter 154 creates no requirement that I grant a stay, however, and I decline to do so.

Chapter 154 conditions its applicability on the Attorney General's determination that a State has established a capital counsel mechanism satisfying its requirements—not on the completion of judicial review of my determination. See 28 U.S.C. 2261(b), 2265. Also, 28 U.S.C. 2265(a)(1)(B), (a)(2) directs me to determine the date on which the state capital counsel mechanism was established and makes that date the effective date of the certification. Thus, chapter 154 applies to cases in which postconviction counsel was appointed pursuant to the mechanism, though the appointment occurred prior to the publication of this notice. See 152 Cong. Rec. at 2449 (remarks of Sen. Kyl) (explaining effect of section 2265(a)(2)); 151 Cong. Rec. at E2640 (extension of remarks of Rep. Flake) (same); *Habeas Corpus Resource Ctr.*, 816 F.3d at 1245 (“[t]he certification is effective as of the date the Attorney General finds the state established its adequate mechanism”). A stay would mean, however, that the certification would not yet be effective in relation to cases in which state postconviction counsel was appointed on or after May 19, 1998—notwithstanding my determination that Arizona established a capital counsel mechanism satisfying chapter 154 on that date—but would only take effect at some unpredictable future time when litigation relating to the certification has run its course.

Moreover, the commenters' arguments for a stay were not convincing. It is not likely that a challenge to the certification will prevail on the merits because Arizona has in fact established a mechanism satisfying the requirements of chapter 154, as explained in this notice. The Ninth Circuit's determination in *Spears* that Arizona has established a capital counsel mechanism satisfying the requirements of chapter 154—a mechanism that has not changed materially since the time of that decision—makes it particularly unlikely that another court will reach a different conclusion.

Even if there were a likelihood of a challenge succeeding on the merits, there is no public interest, or prospect of irreparable injury, that justifies a stay. The commenters' claims on these points largely relate to a concern that the time available to seek federal habeas review will be severely curtailed or eliminated if the time limit of 28 U.S.C. 2263 becomes applicable. This concern is not well founded and does not bear on the validity of the certification as explained above. Commenters also raised, in this connection, criticisms of other aspects of chapter 154, including provisions of 28 U.S.C. 2264 and 2266 that limit review of procedurally defaulted claims and amendment of petitions, and the provisions that set time limits for federal habeas courts to conclude their review of state capital cases. These features of chapter 154 are legislative responses to the unique problems of delay in capital litigation and are within Congress's constitutional authority over matters of judicial procedure in federal habeas review, as discussed above. The litigation and adjudication of cases in conformity with the applicable legal rules are not sources of “injury” supporting a stay. All of these claims amount to criticisms of chapter 154 itself. They may arise in future habeas corpus litigation, but they do not bear on the question before me. See *Calderon v. Ashmus*, 523 U.S. at 746–49.

On the other side of the ledger, Arizona will be harmed if it is denied the benefits of the chapter 154 review procedures, to which it is legally entitled based on its establishment of a capital counsel mechanism satisfying the requirements of chapter 154. The survivors of victims murdered by persons under sentence of death in Arizona will be harmed by a stay, prolonging their suffering and further denying them the closure of a final disposition of the cases that concern them. See 152 Cong. Rec. at 2441–47 (remarks of Sen. Kyl); 151 Cong. Rec. at E2639 (extension of remarks of Rep.

Flake). There will also be harm to any persons under sentence of death in Arizona who would be granted relief on a final disposition of their federal habeas petitions, but whose cases now linger for years or decades because there is no requirement that the cases be accorded priority or concluded within any time frame. As noted above, the submissions elicited by Arizona's request for certification show instances in which the litigation of Arizona capital cases has continued for over 20 years. Staying the remediation Congress has adopted, to which Arizona is entitled, would be harmful to many and not in the public interest.

Consequently, I do not stay my certification of Arizona's postconviction capital counsel mechanism and the effective date of the certification is May 19, 1998, in conformity with 28 U.S.C. 2265(a)(2).

Dated: April 6, 2020.

**William P. Barr,**  
*Attorney General.*

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## DEPARTMENT OF LABOR

### Office of the Secretary

#### Agency Information Collection Activities; Submission for OMB Review; Comment Request; Student Data Form

**ACTION:** Notice of availability; request for comments.

**SUMMARY:** The Department of Labor (DOL) is submitting this Occupational Safety and Health Administration (OSHA)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

**DATES:** The OMB will consider all written comments that agency receives on or before May 14, 2020.

**ADDRESSES:** Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to [www.reginfo.gov/public/do/PRAMain](http://www.reginfo.gov/public/do/PRAMain). Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function.

Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of

the functions of the Department, including whether the information will have practical utility; (2) if the information will be processed and used in a timely manner; (3) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (4) ways to enhance the quality, utility and clarity of the information collection; and (5) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

**FOR FURTHER INFORMATION CONTACT:** Frederick Licari by telephone at 202-693-8073, TTY 202-693-8064, (these are not toll-free numbers) or by email at [DOL\\_PRA\\_PUBLIC@dol.gov](mailto:DOL_PRA_PUBLIC@dol.gov).

**SUPPLEMENTARY INFORMATION:** OSHA Form 182 is used to collect student group and emergency contact information from OSHA Training Institute students. The collected information is used to contact a designated person in case of an emergency. Student group data is used for reports, and tuition receipts. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on December 27, 2019 (84 FR 71478).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. See 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

*Agency:* DOL-OSHA.

*Title of Collection:* Student Data Form.

*OMB Control Number:* 1218-0172.

*Affected Public:* Individuals or Households.

*Total Estimated Number of Respondents:* 4,000.

*Total Estimated Number of Responses:* 4,000.

*Total Estimated Annual Time Burden:* 333 hours.

*Total Estimated Annual Other Costs Burden:* \$0.

**Authority:** 44 U.S.C. 3507(a)(1)(D).

Dated: April 7, 2020.

**Frederick Licari,**

*Departmental Clearance Officer.*

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## DEPARTMENT OF LABOR

### Office of the Secretary

#### Agency Information Collection Activities; Submission for OMB Review; Comment Request; Fidelity Bonding Issuance

**ACTION:** Notice of availability; request for comments.

**SUMMARY:** The Department of Labor (DOL) is submitting this Employment and Training Administration (ETA)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

**DATES:** The OMB will consider all written comments that agency receives on or before May 14, 2020.

**ADDRESSES:** Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to [www.reginfo.gov/public/do/PRAMain](http://www.reginfo.gov/public/do/PRAMain). Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function.

Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) if the information will be processed and used in a timely manner; (3) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (4) ways to enhance the quality, utility and clarity of the information collection; and (5) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

**FOR FURTHER INFORMATION CONTACT:** Frederick Licari by telephone at 202-693-8073, TTY 202-693-8064, (these

are not toll-free numbers) or by email at [DOL\\_PRA\\_PUBLIC@dol.gov](mailto:DOL_PRA_PUBLIC@dol.gov).

**SUPPLEMENTARY INFORMATION:** The Department's Federal Bonding Program (FBP) provides fidelity bonds that protect employers hiring at-risk job applicants from theft, forgery, or embezzlement by the employee. Although the bonds have primarily served offenders, any at-risk job applicant is eligible for bonding services, including: Recovering substance abusers (alcohol or drugs), welfare recipients and other persons having poor financial credit, economically disadvantaged youth and adults who lack a work history, individuals dishonorably discharged from the military, and others. Over the years, the FBP has remained a relatively small program, currently serving about 900 offenders a year. The Department is now expanding the use of fidelity bonds in placing offenders by providing funds to states to purchase such bonds. The Department seeks approval under the PRA for the reporting and record keeping requirements of this new demonstration project. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on September 5, 2019 (84 FR 46762).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. See 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

*Agency:* DOL-ETA.

*Title of Collection:* Fidelity Bonding Issuance.

*OMB Control Number:* 1205-0NEW.

*Affected Public:* Individuals or households, Private Sector, business or other-profits State, Local and Tribal Government.

*Total Estimated Number of Respondents:* 24,000.

*Total Estimated Number of Responses:* 6,000.