

By: Montgomery (74th)

To: Judiciary B

HOUSE BILL NO. 656

1 AN ACT TO REQUIRE NOTICE BEFORE RETURNING AN INDICTMENT
2 AGAINST A LAW ENFORCEMENT OFFICER; TO PROVIDE INDICTMENT
3 REQUIREMENTS; TO PROVIDE CERTAIN RIGHTS FOR AN ACCUSED LAW
4 ENFORCEMENT OFFICER; AND FOR RELATED PURPOSES.

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

6 SECTION 1. (1) Before an indictment against a law
7 enforcement officer charging the officer with a crime which is
8 alleged to have occurred while he or she was in the performance of
9 his or her duties is returned by a grand jury, the officer shall
10 be notified of the contemplated action by the district attorney of
11 the county wherein the grand jury shall convene and the officer
12 shall be afforded the rights provided in Code Section 2 of this
13 act.

14 (2) The requirements of subsection (1) of the section shall
15 apply to all prosecutions, whether for misdemeanors or felonies,
16 and no such prosecution shall proceed without a grand jury
17 indictment.

18 SECTION 2. Any law enforcement officer who shall be charged
19 with malpractice, misfeasance, or malfeasance in office; or with
20 using oppression or tyrannical partiality in the administration or
21 under the color of his office; or with using any other deliberate
22 or illegal means to delay or avoid the due course or proceeding of

23 law; or with any other illegal conduct in the performance or
24 administration of the office which is unbecoming the character of
25 a law enforcement officer; or who shall willfully and knowingly
26 demand more cost than he is entitled to by law in the
27 administration and under color of his office may be indicted. The
28 indictment shall specially set forth the merits of the complaint
29 against the accused law enforcement officer. A copy of the
30 indictment shall be served on the accused law enforcement officer
31 at least fifteen (15) days before it is presented to the grand
32 jury. The accused shall have the right to appear before the grand
33 jury to make such sworn statement as he shall desire at the
34 conclusion of the presentation of the state's evidence. The
35 accused shall not be subject to examination, either direct or
36 cross, and shall not have the right individually or through his
37 counsel to examine the state's witnesses. The accused and his
38 counsel shall have the right to be present during the presentation
39 of all evidence and alleged statements of the accused on the
40 proposed indictment, presentment, or accusation, after which he
41 and his counsel shall retire instanter from the grand jury room to
42 permit the grand jury to deliberate upon the indictment. If a
43 true bill is returned by the grand jury, the indictment shall, as
44 in other cases, be published in open court and shall be placed on
45 the court criminal docket of cases to be tried by a jury. If the
46 accused is convicted, he shall be punished by a fine or by
47 imprisonment, or both, at the discretion of the court; and, if
48 still in office, he shall be removed from office.

49 SECTION 3. This act shall take effect and be in force from
50 and after July 1, 2000.