

By: Tollison, Turner

To: Judiciary

SENATE BILL NO. 2458

1 AN ACT TO PROVIDE THAT A PEACE OFFICER MAY BE CHARGED WITH A
2 CRIME ALLEGED TO HAVE OCCURRED WHILE IN THE PERFORMANCE OF DUTY
3 ONLY AFTER COMPLIANCE WITH CERTAIN REQUIREMENTS; AND FOR RELATED
4 PURPOSES.

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

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

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

16 SECTION 2. Any peace officer who shall be charged with
17 malpractice, misfeasance or malfeasance in office, or with using
18 oppression or tyrannical partiality in the administration of or
19 under the color of his office, or with using any deliberate or
20 illegal means to delay or avoid the due process or proceeding of
21 law, or with any other illegal conduct in the performance or
22 administration of the office which is unbecoming the character of

23 a peace officer, may be indicted. The indictment shall specially
24 set forth the merits of the complaint against the accused peace
25 officer. A copy of the indictment shall be served on the accused
26 peace officer at least fifteen (15) days before it is presented to
27 the grand jury. The accused shall have the right to appear before
28 the grand jury to make such sworn statement as he shall desire at
29 the conclusion of the presentation of the state's evidence. The
30 accused shall not be subject to examination, either direct or
31 cross, and shall not have the right individually or through his
32 counsel to examine the state's witnesses. The accused and his
33 counsel shall have the right to be present during the presentation
34 of all evidence and alleged statements of the accused on the
35 proposed indictment, presentment or accusation, after which the
36 officer and his counsel shall retire instantly from the grand jury
37 room to permit the grand jury to deliberate upon the indictment.
38 If a true bill is returned by the grand jury, the indictment
39 shall, as in other cases, be published in open court and shall be
40 placed on the circuit court's docket of cases to be tried by a
41 petit jury. If the accused is convicted, he shall be punished in
42 the discretion of the court and, if still in office, be removed
43 from office.

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