

By: Representative Blackmon

To: Judiciary B

HOUSE BILL NO. 1238

1 AN ACT TO AMEND SECTION 99-3-28, MISSISSIPPI CODE OF 1972, TO
2 REQUIRE A PROBABLE CAUSE HEARING BEFORE AN ARREST WARRANT MAY BE
3 ISSUED FOR A LAW ENFORCEMENT OFFICER; AND FOR RELATED PURPOSES.

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

5 **SECTION 1.** Section 99-3-28, Mississippi Code of 1972, is
6 amended as follows:

7 99-3-28. (1) (a) Except as provided in subsection (2) of
8 this section, before an arrest warrant shall be issued against any
9 teacher who is a licensed public school employee as defined in
10 Section 37-9-1 or a sworn law enforcement officer within this
11 state as defined in Section 45-6-3 for a criminal act, whether
12 misdemeanor or felony, which is alleged to have occurred while the
13 teacher or law enforcement officer was in the performance of their
14 duties, a probable cause hearing shall be held before a circuit
15 court judge. The purpose of the hearing shall be to determine if
16 adequate probable cause exists for the issuance of a warrant. All
17 parties testifying in these proceedings shall do so under oath.
18 The accused shall have the right to enter an appearance at the
19 hearing, represented by legal counsel at his own expense, to hear
20 the accusations and evidence against him; he may present evidence
21 or testify in his own behalf.

22 (b) The authority receiving any such charge or
23 complaint against a teacher or law enforcement officer shall
24 immediately present same to the county prosecuting attorney having
25 jurisdiction who shall immediately present the charge or complaint
26 to a circuit judge in the judicial district where the action arose
27 for disposition pursuant to this section.



28 (2) Nothing in this section shall prohibit the issuance of
29 an arrest warrant by a circuit court judge upon presentation of
30 probable cause, without the holding of a probable cause hearing,
31 if adequate evidence is presented to satisfy the court that there
32 is a significant risk that the accused will flee the court's
33 jurisdiction or that the accused poses a threat to the safety or
34 well-being of the public.

35 **SECTION 2.** This act shall take effect and be in force from
36 and after July 1, 2002.

