

By: Senator(s) Tollison, Chamberlin, Mettetal, Hamilton, Nunnelee, White (29th), Michel, Johnson (19th), Williamson, Johnson (38th), Robertson, Dickerson, Browning, Turner, Burton, Carmichael, King, Chaney, Smith

To: Judiciary

SENATE BILL NO. 2580

1 AN ACT TO AMEND SECTION 99-3-28, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE THAT AN ARREST WARRANT MAY BE ISSUED AGAINST PEACE
3 OFFICERS CHARGED WITH A CRIME ALLEGED TO HAVE OCCURRED WHILE IN
4 THE PERFORMANCE OF DUTY ONLY AFTER COMPLIANCE WITH CERTAIN
5 REQUIREMENTS; AND FOR RELATED PURPOSES.

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

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

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

23 (b) Except as provided in subsection (2) of this
24 section, before an arrest warrant shall be issued against any
25 sworn peace officer within this state for a criminal act, whether
26 misdemeanor or felony, which is alleged to have occurred while the
27 officer was in the performance of the officer's official duties, a
28 probable cause hearing shall be held before a circuit court judge.



29 The purpose of the hearing shall be to determine if adequate
30 probable cause exists for the issuance of a warrant. All parties
31 testifying in these proceedings shall do so under oath. The
32 accused shall have the right to enter an appearance at the
33 hearing, represented by legal counsel at his own expense, to hear
34 the accusations and evidence against him; he may present evidence
35 or testify in his own behalf.

36 (c) The authority receiving any such charge or
37 complaint against a teacher or sworn police officer shall
38 immediately present same to the county prosecuting attorney having
39 jurisdiction who shall immediately present the charge or complaint
40 to a circuit judge in the judicial district where the action arose
41 for disposition pursuant to this section.

42 (2) Nothing in this section shall prohibit the issuance of
43 an arrest warrant by a circuit court judge upon presentation of
44 probable cause, without the holding of a probable cause hearing,
45 if adequate evidence is presented to satisfy the court that there
46 is a significant risk that the accused will flee the court's
47 jurisdiction or that the accused poses a threat to the safety or
48 well-being of the public.

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

