

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.

