

By: Senator(s) Johnson (38th)

To: Judiciary

SENATE BILL NO. 2635

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, or a sworn law enforcement officer within this  
13 state as defined in Section 45-6-3 for a criminal act, whether  
14 misdemeanor or felony, which is alleged to have occurred while the  
15 teacher or law enforcement officer was in the performance of the  
16 teacher's or law enforcement officer's official duties, a probable  
17 cause hearing shall be held before a circuit court judge. The  
18 purpose of the hearing shall be to determine if adequate probable  
19 cause exists for the issuance of a warrant. All parties  
20 testifying in these proceedings shall do so under oath. The  
21 accused shall have the right to enter an appearance at the  
22 hearing, represented by legal counsel at his own expense, to hear  
23 the accusations and evidence against him; he may present evidence  
24 or testify in his own behalf.

25 (b) The authority receiving any such charge or  
26 complaint against a teacher or law enforcement officer shall  
27 immediately present same to the county prosecuting attorney having  
28 jurisdiction who shall immediately present the charge or complaint



29 to a circuit judge in the judicial district where the action arose  
30 for disposition pursuant to this section.

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

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

