

By: Representative Fleming

To: Judiciary B

HOUSE BILL NO. 110

1 AN ACT TO AMEND SECTION 99-3-28, MISSISSIPPI CODE OF 1972, TO
2 REQUIRE A PROBABLE CAUSE HEARING BEFORE A COUNSELOR AT AN
3 ADOLESCENT OFFENDER PROGRAM MAY BE ARRESTED; AND FOR RELATED
4 PURPOSES.

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

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

8 99-3-28. (1) (a) Except as provided in subsection (2) of
9 this section, before an arrest warrant shall be issued against any
10 teacher who is a licensed public school employee as defined in
11 Section 37-9-1, a sworn law enforcement officer within this state
12 as defined in Section 45-6-3 or a counselor at an Adolescent
13 Offender Program created under Section 43-27-201 for a criminal
14 act, whether misdemeanor or felony, which is alleged to have
15 occurred while the teacher, law enforcement officer or counselor
16 was in the performance of official duties, a probable cause
17 hearing shall be held before a circuit court judge. The purpose
18 of the hearing shall be to determine if adequate probable cause
19 exists for the issuance of a warrant. All parties testifying in
20 these proceedings shall do so under oath. The accused shall have
21 the right to enter an appearance at the hearing, represented by
22 legal counsel at his own expense, to hear the accusations and
23 evidence against him; he may present evidence or testify in his
24 own behalf.

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

29 complaint to a circuit judge in the judicial district where the
30 action arose 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, 2004.