

By: Senator(s) Carmichael, Chamberlin

To: Judiciary, Division B

SENATE BILL NO. 2601

1 AN ACT TO AMEND SECTION 99-3-28, MISSISSIPPI CODE OF 1972, TO
2 INCLUDE CERTIFIED JAIL OFFICERS WITHIN CERTAIN PROCEDURAL
3 REQUIREMENTS TO BE MET PRIOR TO THE ISSUANCE OF AN ARREST WARRANT
4 FOR COMMITTING A CRIME WHILE IN PERFORMANCE OF DUTIES; AND FOR
5 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, a certified jail officer as defined in Section
13 45-4-9, or a sworn law enforcement officer within this state as
14 defined in Section 45-6-3 for a criminal act, whether misdemeanor
15 or felony, which is alleged to have occurred while the teacher,
16 jail officer or law enforcement officer was in the performance of
17 official duties, a probable cause hearing shall be held before a
18 circuit court judge. The purpose of the hearing shall be to
19 determine if adequate probable cause exists for the issuance of a
20 warrant. All parties testifying in these proceedings shall do so
21 under oath. The accused shall have the right to enter an
22 appearance at the hearing, represented by legal counsel at his own
23 expense, to hear the accusations and evidence against him; he may
24 present evidence or testify in his own behalf.

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

29 charge or complaint to a circuit judge in the judicial district
30 where the 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 wellbeing of the public.

38 **SECTION 2.** This act shall take effect and be in force from
39 and after July 1, 2004.