

By: Senator(s) Carmichael, Chamberlin

To: Judiciary, Division B

SENATE BILL NO. 2601
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 99-3-28, MISSISSIPPI CODE OF 1972, TO
2 INCLUDE CERTIFIED JAIL OFFICERS AND COUNSELORS AT ADOLESCENT
3 OFFENDER PROGRAMS WITHIN CERTAIN PROCEDURAL REQUIREMENTS TO BE MET
4 PRIOR TO THE ISSUANCE OF AN ARREST WARRANT FOR COMMITTING A CRIME
5 WHILE IN PERFORMANCE OF DUTIES; 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, a certified jail officer as defined in Section
13 45-4-9, a counselor at an adolescent offender program created
14 under Section 43-27-201 et seq., or a sworn law enforcement
15 officer within this state as defined in Section 45-6-3 for a
16 criminal act, whether misdemeanor or felony, which is alleged to
17 have occurred while the teacher, jail officer, counselor at an
18 adolescent offender program or law enforcement officer was in the
19 performance of official duties, a probable cause hearing shall be
20 held before a circuit court judge. The purpose of the hearing
21 shall be to determine if adequate probable cause exists for the
22 issuance of a warrant. All parties testifying in these
23 proceedings shall do so under oath. The accused shall have the
24 right to enter an appearance at the hearing, represented by legal
25 counsel at his own expense, to hear the accusations and evidence
26 against him; he may present evidence or testify in his own behalf.

27 (b) The authority receiving any such charge or
28 complaint against a teacher, jail officer, counselor at an

29 adolescent offender program or law enforcement officer shall
30 immediately present same to the county prosecuting attorney having
31 jurisdiction who shall immediately present the charge or complaint
32 to a circuit judge in the judicial district where the action arose
33 for disposition pursuant to this section.

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

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