

By: Representative Carlton

To: Judiciary A

HOUSE BILL NO. 139

1 AN ACT TO AMEND SECTION 99-3-28, MISSISSIPPI CODE OF 1972, TO  
2 PROVIDE THAT ALL SCHOOL EMPLOYEES WHO ARE PERFORMING OFFICIAL  
3 SCHOOL DUTIES ARE ENTITLED TO A PROBABLE CAUSE HEARING BEFORE AN  
4 ARREST WARRANT MAY BE ISSUED; AND FOR RELATED 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 or any other school employee who is performing  
12 official school duties, a certified jail officer as defined in  
13 Section 45-4-9, a counselor at an adolescent offender program  
14 created under Section 43-27-201 et seq., or a sworn law  
15 enforcement officer within this state as defined in Section 45-6-3  
16 for a criminal act, whether misdemeanor or felony, which is  
17 alleged to have occurred while the teacher, school employee, jail  
18 officer, counselor at an adolescent offender program or law  
19 enforcement officer was in the performance of official duties, a  
20 probable cause hearing shall be held before a circuit court judge.  
21 The purpose of the hearing shall be to determine if adequate  
22 probable cause exists for the issuance of a warrant. All parties  
23 testifying in these proceedings shall do so under oath. The  
24 accused shall have the right to enter an appearance at the  
25 hearing, represented by legal counsel at his own expense, to hear  
26 the accusations and evidence against him; he may present evidence  
27 or testify in his own behalf.

28           (b) The authority receiving any such charge or  
29 complaint against a teacher, jail officer, counselor at an  
30 adolescent offender program or law enforcement officer shall  
31 immediately present same to the county prosecuting attorney having  
32 jurisdiction who shall immediately present the charge or complaint  
33 to a circuit judge in the judicial district where the action arose  
34 for disposition pursuant to this section.

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

42           **SECTION 2.** This act shall take effect and be in force from  
43 and after July 1, 2006.