

By: Representatives Arnold, Carpenter

To: Judiciary B

HOUSE BILL NO. 1238

1 AN ACT TO CREATE NEW SECTION 45-6-16, MISSISSIPPI CODE OF  
2 1972, TO CREATE A RIGHT TO FOLLOW-UP TESTING FOR A LAW ENFORCEMENT  
3 OFFICER WHO TESTS POSITIVE FOR ILLEGAL DRUG USE AND TO PROVIDE FOR  
4 TERMS OF SUSPENSION PENDING THE RECEIPT OF RESULTS FROM THE  
5 FOLLOW-UP TEST; TO AMEND SECTION 45-6-17, MISSISSIPPI CODE OF  
6 1972, TO CONFORM; AND FOR RELATED PURPOSES.

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

8 **SECTION 1.** The following shall be codified as Section  
9 45-6-16, Mississippi Code of 1972:

10 45-6-16. (1) Any full- or part-time law enforcement officer  
11 who is accused of drug use in violation of the employer's policies  
12 or state law based upon the results of a urinalysis must be  
13 afforded the opportunity to undergo a subsequent more  
14 scientifically reliable test before the officer is terminated or  
15 is suspended without pay.

16 (2) If a full- or part-time law enforcement officer is  
17 required as a condition of employment to submit to a urine test  
18 for drug use and the result of the test is positive, the officer  
19 may be relieved of duty and placed on administrative leave with  
20 pay. The officer is allowed two (2) business days following



21 official written notice of the results to contest the test  
22 results. If the officer does not contest the test results within  
23 the two-day period, the employer may initiate disciplinary action.  
24 If the officer contests the test results within the two-day  
25 period, the officer is allowed an additional five (5) days to  
26 appear at a certified laboratory and voluntarily submit to the  
27 taking of a hair sample for the purpose of a hair follicle test  
28 for drug analysis. The hair follicle test is initially at the  
29 expense of the officer; however, if the test result is negative,  
30 the officer shall be reimbursed the cost of the test by the  
31 employer. If the test result is positive, the officer shall bear  
32 the cost of the test. If the hair follicle test result is  
33 negative for the drug or drugs specified in the urinalysis report  
34 and thereby does not support the findings of the urinalysis, then  
35 the urinalysis results shall be declared a false positive, and the  
36 officer shall be immediately placed back into his previous  
37 position of employment.

38 **SECTION 2.** Section 45-6-17, Mississippi Code of 1972, is  
39 amended as follows:

40 45-6-17. (1) Any full- or part-time law enforcement officer  
41 who does not comply with the provisions of this chapter, or whose  
42 certificate has been suspended or revoked under provisions of this  
43 chapter, shall not be authorized to exercise the powers of law  
44 enforcement officers generally, and particularly shall not be  
45 authorized to exercise the power of arrest.



46 (2) Any state agency or political subdivision that employs a  
47 person as a full- or part-time law enforcement officer who does  
48 not meet the requirements of this chapter, or who employs a person  
49 whose certificate has been suspended or revoked under provisions  
50 of this chapter, is prohibited from paying the salary of such  
51 person, or providing any public monies for the equipment or  
52 support of the law enforcement activities of such person except as  
53 provided in Section 45-6-16, and any person violating this  
54 subsection shall be personally liable for making such payment.

55 **SECTION 3.** This act shall take effect and be in force from  
56 and after July 1, 2023.

