

By: Senator(s) Wiggins

To: Judiciary, Division A

SENATE BILL NO. 2791

1 AN ACT TO REQUIRE THAT BEFORE A BILL OF INDICTMENT AGAINST A
2 PRESENT OR FORMER LAW ENFORCEMENT OFFICER CHARGING THE OFFICER
3 WITH A CRIME WHICH CONCERNS THE OFFICER'S USE OF LETHAL FORCE AND
4 IS ALLEGED TO HAVE OCCURRED WHILE HE OR SHE WAS IN THE PERFORMANCE
5 OF HIS OR HER DUTIES IS PRESENTED TO A GRAND JURY THAT THE OFFICER
6 SHALL BE NOTIFIED IN WRITING OF THE CONTEMPLATED ACTION BY THE
7 PROSECUTING ATTORNEY; TO REQUIRE THAT THE NOTICE TO THE OFFICER
8 INFORM THE OFFICER OF THE GRAND JURY INVESTIGATION AND OFFER THE
9 OFFICER THE OPPORTUNITY TO TESTIFY BEFORE THE GRAND JURY AT THE
10 CONCLUSION OF THE STATE'S CASE-IN-CHIEF; TO PROVIDE THAT THE
11 OFFICER MAY BE QUESTIONED BY THE PROSECUTING ATTORNEY OR MEMBERS
12 OF THE GRAND JURY; TO PROVIDE A PROCEDURE FOR THE OFFICER TO
13 TESTIFY; TO PROVIDE THAT THE OFFICER'S ATTORNEY SHALL NOT ASK THE
14 OFFICER QUESTIONS OR OBJECT BASED ON EVIDENTIARY GROUNDS; TO
15 AUTHORIZE THE PROSECUTING ATTORNEY TO PRESENT REBUTTAL EVIDENCE;
16 TO PROHIBIT PROSECUTIONS FROM PROCEEDING WITHOUT A GRAND JURY
17 INDICTMENT FOR SUCH CRIMES; AND FOR RELATED PURPOSES.

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

19 **SECTION 1.** (1) Before a bill of indictment against a
20 present or former law enforcement officer charging the officer
21 with a crime which concerns the officer's use of lethal force and
22 is alleged to have occurred while the officer was in the
23 performance of his or her duties is presented to a grand jury, the
24 officer shall be notified in writing of the contemplated action by
25 the prosecuting attorney. Such notice shall be provided to such



26 officer not less than twenty (20) days prior to the date upon
27 which a grand jury will begin hearing evidence, and such notice
28 shall inform such officer:

29 (a) That the grand jury is investigating such officer's
30 conduct to determine if there is probable cause to conclude that
31 he or she has violated one or more laws of this state;

32 (b) That he or she may request, but cannot be
33 compelled, to testify as a witness before the grand jury regarding
34 his or her conduct; and

35 (c) That, if such officer requests to testify before
36 the grand jury, he or she will be permitted to do so at the
37 conclusion of the presentation of the state's case-in-chief and
38 that he or she may be questioned by the prosecuting attorney or
39 members of the grand jury as are any other witnesses.

40 (2) If the officer requests to appear as a witness, he or
41 she shall notify the prosecuting attorney any time prior to the
42 date the grand jury will begin hearing testimony in such
43 investigation. The prosecuting attorney shall inform the officer
44 in writing of the date and time when he or she shall be present in
45 order to testify and of the procedure that the grand jury will
46 follow pursuant to subsection (3) of this section. The
47 prosecuting attorney shall further advise the grand jury that an
48 officer has the right to appear and testify or not to appear and
49 testify and that, if the officer chooses not to testify, the grand



jury shall not consider that choice in any way in making its decision.

(3) If the officer requests to testify before the grand jury and appears at the date and time specified, the case shall proceed as in any other criminal case heard by a grand jury, except that the officer shall be permitted to testify at the conclusion of the presentation of the state's case-in-chief and that he or she shall only be present in the grand jury room while he or she is testifying. Such officer may be questioned by the prosecuting attorney or members of the grand jury as are any other witnesses. After the officer has been sworn as a witness and prior to any testimony by the officer, the prosecuting attorney shall advise the officer substantially of the following:

(a) The officer's appearance before the grand jury is voluntary, and he or she cannot be compelled to appear as a witness;

(b) By agreeing to be sworn as a witness, he or she will be asked to testify and answer questions and may be asked to produce records, documents and other physical evidence;

(c) The officer may refuse to answer any question or to produce records, documents and other physical evidence if a truthful answer to the question or producing such records, documents and other physical evidence would tend to incriminate the officer or would tend to bring infamy, disgrace or public contempt upon the officer;



75 (d) Any testimony given by the officer may be used
76 against him or her by the grand jury or in a subsequent legal
77 proceeding; and

78 (e) If the officer is represented by an attorney, the
79 attorney shall have the right to be present in the grand jury room
80 while the officer is testifying, and the officer will be permitted
81 reasonable opportunity to consult with his or her attorney outside
82 the grand jury room.

83 (4) After being sworn as a witness but prior to being asked
84 any questions by the prosecuting attorney or the grand jurors, the
85 officer may make such sworn statement as he or she shall desire.
86 The officer's attorney shall not propound questions to the officer
87 nor object to questions propounded to the officer on evidentiary
88 grounds.

89 (5) At the conclusion of the officer's testimony, if any,
90 the prosecuting attorney may present rebuttal evidence and advise
91 the grand jury on matters of law.

92 (6) The requirements of this section shall apply to all
93 prosecutions, whether for felonies or misdemeanors, and no such
94 prosecution shall proceed either in court without a grand jury
95 indictment.

96 **SECTION 2.** This act shall take effect and be in force from
97 and after July 1, 2025.

