

By: Senator(s) Tollison

To: Judiciary

SENATE BILL NO. 2709
(As Passed the Senate)

1 AN ACT TO PROVIDE THAT AN ARREST WARRANT MAY BE ISSUED
2 AGAINST PEACE OFFICERS CHARGED WITH A CRIME ALLEGED TO HAVE
3 OCCURRED WHILE IN THE PERFORMANCE OF DUTY ONLY AFTER COMPLIANCE
4 WITH CERTAIN REQUIREMENTS; AND FOR RELATED PURPOSES.

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

6 SECTION 1. (1) (a) Except as provided in subsection (2) of
7 this section, before an arrest warrant shall be issued against any
8 sworn peace officer within this state for a criminal act, whether
9 misdemeanor or felony, which is alleged to have occurred while
10 said officer was in the performance of the officer's official
11 duties, a probable cause hearing shall be held before a circuit
12 court judge. The purpose of the hearing shall be to determine if
13 adequate probable cause exists for the issuance of a warrant. All
14 parties testifying in these proceedings shall do so under oath.
15 The accused officer shall have the right to enter an appearance at
16 the hearing, represented by legal counsel at his own expense, to
17 hear the accusations and evidence against him; he may present
18 evidence or testify in his own behalf.

19 (b) The authority receiving any such charge or
20 complaint against a sworn police officer shall immediately present
21 same to the county prosecuting attorney having jurisdiction who
22 shall immediately present the charge or complaint to a circuit
23 judge in the judicial district where the action arose for
24 disposition pursuant to this section.

25 (2) Nothing in this section shall prohibit the issuance of
26 an arrest warrant by a circuit court judge upon presentation of
27 probable cause, without the holding of a probable cause hearing,

28 if adequate evidence is presented to satisfy the court that there
29 is a significant risk that the accused officer will flee the
30 court's jurisdiction or that the officer poses a threat to the
31 safety or well-being of the public.

32 SECTION 2. This act shall take effect and be in force from
33 and after July 1, 2001.