MISSISSIPPI LEGISLATURE REGULAR SESSION 2002

By: Representatives Snowden, Martinson, Eads, Horne, Fleming

To: Judiciary B

HOUSE BILL NO. 1434

AN ACT TO AMEND SECTION 99-3-28, MISSISSIPPI CODE OF 1972, TO REQUIRE A PROBABLE CAUSE HEARING BEFORE AN ARREST WARRANT MAY BE ISSUED FOR A LAW ENFORCEMENT OFFICER; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 99-3-28, Mississippi Code of 1972, is amended as follows:

99-3-28. (1) (a) Except as provided in subsection (2) of this section, before an arrest warrant shall be issued against any teacher who is a licensed public school employee as defined in Section 37-9-1 or a sworn law enforcement officer within this state as defined in Section 45-6-3 for a criminal act, whether misdemeanor or felony, which is alleged to have occurred while the teacher or law enforcement officer was in the performance of their duties, a probable cause hearing shall be held before a circuit court judge. The purpose of the hearing shall be to determine if adequate probable cause exists for the issuance of a warrant. All parties testifying in these proceedings shall do so under oath. The accused shall have the right to enter an appearance at the hearing, represented by legal counsel at his own expense, to hear the accusations and evidence against him; he may present evidence or testify in his own behalf.

(b) The authority receiving any such charge or complaint against a teacher or law enforcement officer shall immediately present same to the county prosecuting attorney having jurisdiction who shall immediately present the charge or complaint to a circuit judge in the judicial district where the action arose for disposition pursuant to this section.

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

SECTION 2. This act shall take effect and be in force from and after July 1, 2002.

ST: Law enforcement officers; require probable cause hearing before arrest warrant may be issued against.