

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

To: Judiciary B

HOUSE BILL NO. 1434  
(As Sent to Governor)

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

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

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

7 99-3-28. (1) (a) Except as provided in subsection (2) of  
8 this section, before an arrest warrant shall be issued against any  
9 teacher who is a licensed public school employee as defined in  
10 Section 37-9-1 or a sworn law enforcement officer within this  
11 state as defined in Section 45-6-3 for a criminal act, whether  
12 misdemeanor or felony, which is alleged to have occurred while the  
13 teacher or law enforcement officer was in the performance of  
14 official duties, a probable cause hearing shall be held before a  
15 circuit court judge. The purpose of the hearing shall be to  
16 determine if adequate probable cause exists for the issuance of a  
17 warrant. All parties testifying in these proceedings shall do so  
18 under oath. The accused shall have the right to enter an  
19 appearance at the hearing, represented by legal counsel at his own  
20 expense, to hear the accusations and evidence against him; he may  
21 present evidence or testify in his own behalf.

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



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

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

