

By: Representative Snowden

To: Judiciary B

HOUSE BILL NO. 1197

1 AN ACT TO AMEND SECTION 99-3-28, MISSISSIPPI CODE OF 1972, TO
2 REQUIRE A PROBABLE CAUSE HEARING BEFORE ISSUING AN ARREST WARRANT
3 AGAINST A JAIL 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, a sworn law enforcement officer within this state
11 as defined in Section 45-6-3 or a certified jail officer as
12 described in Section 45-4-9 for a criminal act, whether
13 misdemeanor or felony, which is alleged to have occurred while the
14 teacher, law enforcement officer or jail officer was in the
15 performance of official duties, a probable cause hearing shall be
16 held before a circuit court judge. The purpose of the hearing
17 shall be to determine if adequate probable cause exists for the
18 issuance of a warrant. All parties testifying in these
19 proceedings shall do so under oath. The accused shall have the
20 right to enter an appearance at the hearing, represented by legal
21 counsel at his own expense, to hear the accusations and evidence
22 against him; he may present evidence or testify in his own behalf.

23 (b) The authority receiving any such charge or
24 complaint against a teacher, law enforcement officer or jail
25 officer shall immediately present same to the county prosecuting
26 attorney having jurisdiction who shall immediately present the

27 charge or complaint to a circuit judge in the judicial district
28 where the action arose for disposition pursuant to this section.

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

36 **SECTION 2.** This act shall take effect and be in force from
37 and after July 1, 2004.