

By: Representatives Robinson (84th), Horne

To: Municipalities

HOUSE BILL NO. 490

1 AN ACT TO PROVIDE THAT EVERY MUNICIPALITY SHALL PROVIDE A  
2 PREDISCIPLINARY HEARING THAT COMPLIES WITH DUE PROCESS BEFORE THE  
3 SUSPENSION OR TERMINATION OF ANY LAW ENFORCEMENT OFFICER IN A  
4 MUNICIPALITY; TO PROVIDE THAT A MUNICIPALITY MAY HOLD A SEPARATE  
5 POST-DISCIPLINARY HEARING ON THE SUSPENSION OR TERMINATION OF A  
6 LAW ENFORCEMENT OFFICER; AND FOR RELATED PURPOSES.

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

8 **SECTION 1.** (1) Every municipality shall provide a  
9 predisciplinary hearing that complies with due process before the  
10 suspension or termination of its law enforcement officers,  
11 provided nothing in this section shall preclude a municipality  
12 from placing a law enforcement officer on leave with pay until the  
13 person or body holding the hearing has made its decision in the  
14 matter.

15 (2) Every municipality shall establish written due process  
16 procedures applicable to the predisciplinary hearing. At a  
17 minimum due process shall consist of all the following:

18 (a) A written notice to the officer detailing the  
19 reason(s) for the suspension or termination. The notice shall be  
20 issued by the person or persons with authority to suspend or  
21 terminate the law enforcement officer. The notice shall also  
22 inform the officer that he or she has ten (10) days to request a  
23 hearing in writing and where such written request should be filed.  
24 If the officer fails to request such hearing within ten (10) days  
25 after receiving written notice of the suspension or termination,  
26 the right to such hearing shall be deemed waived.

27 (b) The accused officer shall have the right to appear  
28 at this hearing and to be represented at his or her own expense.  
29 The officer or representative shall have the right to address any

30 charges against the officer. If the officer has a representative,  
31 the officer shall also be present at the hearing.

32 (c) The officer or his or her representative shall have  
33 the right to present evidence on his or her behalf and question  
34 witnesses who testify in the proceeding.

35 (d) The party filing the accusations shall be present  
36 for the predisciplinary hearing.

37 (3) A municipality may also hold a separate  
38 post-disciplinary hearing on the suspension or termination of the  
39 law enforcement officer. If the municipality holds a separate  
40 post-termination hearing on the matter, the officer or  
41 representative thereof shall be present and may present evidence  
42 on his or her behalf and question witnesses who testify. If no  
43 post-disciplinary hearing is to be afforded to the officer, then  
44 the officer shall have all due process rights afforded in a  
45 post-disciplinary hearing during the predisciplinary hearing.

46 (4) The hearing shall be conducted by an impartial hearing  
47 officer or body, and if the hearing is before the municipal  
48 governing body, the hearing may be conducted in an executive  
49 session, provided that any vote for or against suspension or  
50 termination shall occur in an open session.

51 (5) Nothing shall prohibit a municipality from allowing or  
52 enacting due process which exceeds the requirements in this  
53 section.

54 (6) The rules of evidence and rules of discovery shall not  
55 apply to either of the hearings provided for in this section.

56 **SECTION 2.** This act shall take effect and be in force from  
57 and after July 1, 2005.