

1 HB236  
2 115278-1  
3 By Representatives McCutcheon, Treadaway, Drake, Hill,  
4 Canfield, Wood, Ball, Ward, McDaniel, Morrow, Sanderford,  
5 Beck, Clouse, Allen, Moore (P), Gaston, Baker (A), Faust,  
6 Williams (P), Love and Collier  
7 RFD: Judiciary  
8 First Read: 12-JAN-10

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8 SYNOPSIS: Existing law does not provide procedures  
9 for issuing arrest warrants for public education  
10 employees and law enforcement officers performing  
11 actions in the line of duty.

12 This bill would provide procedures for  
13 issuing a warrant for a misdemeanor offense.

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15 A BILL  
16 TO BE ENTITLED  
17 AN ACT  
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19 Relating to arrest warrants for public education  
20 employees and law enforcement officers; to provide procedures  
21 for issuing warrants for certain misdemeanor offenses.

22 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

23 Section 1. (a) As used in this act, the term "public  
24 education employee or law enforcement officer" means any  
25 public education employee or law enforcement officer employed  
26 by federal, state, county, or municipal government or any  
27 public college, school, or university.

1           (b) As used in this act, the term "in the line of  
2 duty" means when a public education employee or law  
3 enforcement officer is performing duties within the scope of  
4 his or her employment.

5           Section 2. (a) When a criminal charge or complaint  
6 amounting to a misdemeanor offense against a public education  
7 employee or a law enforcement officer is filed with a  
8 magistrate or other official for an offense alleged to have  
9 been committed by the public education employee or law  
10 enforcement officer while in the line of duty of his or her  
11 employment, the magistrate or other official shall immediately  
12 present the charge or complaint to the local law enforcement  
13 agency having primary jurisdiction where the offense was  
14 alleged to have been committed.

15           (b) The local law enforcement agency shall conduct  
16 an investigation of the complaint to determine if probable  
17 cause exists. If the investigation determines probable cause  
18 exists, then the magistrate shall issue a warrant for the  
19 arrest of the public education employee or law enforcement  
20 officer. If the investigation determines that probable cause  
21 does not exist for a warrant, the magistrate shall not issue a  
22 warrant. Thereafter, the charge or complaint and investigation  
23 may be reviewed by the local district attorney and presented  
24 to a grand jury at the discretion of the district attorney.

25           (c) Nothing in this section shall prohibit the  
26 issuance of an arrest warrant by a magistrate upon  
27 presentation of probable cause if adequate evidence is

1 presented to satisfy the magistrate that there is a  
2 significant risk that the accused will flee the jurisdiction  
3 or that the accused poses a threat to the safety or well-being  
4 of the public.

5 (d) A warrant issued pursuant to this act may be  
6 served during the workday at the workplace. Notwithstanding  
7 the foregoing, a warrant issued for the arrest of a public  
8 education employee who is employed on a public college,  
9 school, or university campus may not be served in the presence  
10 of students.

11 Section 3. This act shall become effective on the  
12 first day of the third month following its passage and  
13 approval by the Governor, or its otherwise becoming law.