

1 HB265  
2 126677-1  
3 By Representatives McCutcheon, Galliher, Morrow, Johnson (W),  
4 Treadaway, Hall, Todd, Williams (D), Farley, Tuggle, Nordgren,  
5 Collins, Robinson (J), McClendon, Patterson, Sanderford, Love,  
6 Bridges, Millican, Henry, Baker, Chesteen, Faust, Brown,  
7 Hubbard (J), Colston, Melton, England, Shiver and Williams (J)  
8 RFD: Judiciary  
9 First Read: 22-MAR-11

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8 SYNOPSIS: Existing law does not provide procedures for  
9 issuing an arrest warrant against a public  
10 education employee or law enforcement officer  
11 performing actions in the line of duty.

12 This bill would provide procedures for  
13 issuing a warrant for a misdemeanor offense against  
14 a public education employee or law enforcement  
15 officer while in the line of duty of his or her  
16 employment.

17  
18 A BILL  
19 TO BE ENTITLED  
20 AN ACT

21  
22 Relating to arrest warrants; to provide a procedure  
23 for issuing an arrest warrant against a public education  
24 employee or law enforcement officer for certain misdemeanor  
25 offenses.

26 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1           Section 1. (a) For the purposes of this section, the  
2 following terms shall have the following meanings:

3           (1) IN THE LINE OF DUTY. When a public education  
4 employee or law enforcement officer is performing duties  
5 within the scope of his or her employment.

6           (2) PUBLIC EDUCATION EMPLOYEE OR LAW ENFORCEMENT  
7 OFFICER. A public education employee or law enforcement  
8 officer employed by federal, state, county, or municipal  
9 government or a public school, college, or university.

10           (b) When a criminal charge or complaint amounting to  
11 a misdemeanor offense against a public education employee or a  
12 law enforcement officer is filed with a magistrate or other  
13 official for an offense alleged to have been committed by the  
14 public education employee or law enforcement officer while in  
15 the line of duty, the magistrate or other official shall  
16 immediately present the charge or complaint to the local law  
17 enforcement agency having primary jurisdiction over the  
18 location where the offense was alleged to have been committed.

19           (c) The local law enforcement agency shall conduct  
20 an investigation of the complaint to determine if probable  
21 cause exists. If the investigation determines that probable  
22 cause exists, the magistrate or other official shall issue a  
23 warrant for the arrest of the public education employee or law  
24 enforcement officer. If the investigation determines that  
25 probable cause does not exist for a warrant, no warrant for  
26 arrest shall issue. Thereafter, the charge or complaint and  
27 investigation may be reviewed by the local district attorney

1 and presented to a grand jury at the discretion of the  
2 district attorney.

3 (d) Nothing in this section shall prohibit the  
4 issuance of an arrest warrant by a magistrate or other  
5 official upon presentation of probable cause if adequate  
6 evidence is presented to satisfy the magistrate or other  
7 official that there is a significant risk that the accused may  
8 flee the jurisdiction or that the accused poses a threat to  
9 the safety or well-being of the public.

10 (e) A warrant issued pursuant to this section may be  
11 served during the workday at the workplace. Notwithstanding  
12 the foregoing, a warrant issued for the arrest of a public  
13 education employee employed on a public school, college, or  
14 university campus may not be served in the presence of a  
15 student.

16 Section 2. This act shall become effective on the  
17 first day of the third month following its passage and  
18 approval by the Governor, or its otherwise becoming law.