

1 HB74
2 164892-1
3 By Representative Ball
4 RFD: Judiciary
5 First Read: 03-MAR-15

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8 SYNOPSIS: Existing law does not provide procedures for
9 issuing an arrest warrant for a public education
10 employee concerning official duties of the
11 employee.

12 This bill would provide procedures for
13 issuing an arrest warrant for an employee
14 concerning actions performed in the official duties
15 of the employee.

16 This bill would provide for certain
17 exceptions.

18
19 A BILL

20 TO BE ENTITLED

21 AN ACT

22
23 Relating to public education; to provide procedures
24 for issuing an arrest warrant for a public education employee
25 concerning actions performed in the official duties of the
26 employee; and to provide for exceptions.

27 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. For the purposes of this act, the
2 following words have the following meanings:

3 (1) OFFICIAL DUTIES. Duties performed during the
4 school workday or while attending any extracurricular
5 activities or events the employee attends as a part of his or
6 her official responsibilities with the school.

7 (2) PUBLIC EDUCATION. All public schools, public
8 two-year postsecondary institutions, public four-year colleges
9 and universities, the Alabama Institute for Deaf and Blind,
10 the Alabama School of Fine Arts, the Alabama High School for
11 Mathematics and Science, and the Department of Youth Services
12 School District.

13 (3) PUBLIC EDUCATION or PUBLIC SCHOOL EMPLOYEE. Any
14 full-time or part-time employee of the public schools or
15 public education.

16 (4) PUBLIC SCHOOLS. All public schools, grades
17 prekindergarten through 12, inclusive.

18 Section 2. (a) Before an arrest warrant for a
19 misdemeanor offense or a municipal ordinance violation is
20 issued against any public education or public school employee
21 for a criminal act which is alleged to have occurred while the
22 employee was in the performance of official duties, the
23 evidence of the offense shall be reviewed by a district judge
24 or municipal judge having jurisdiction for the purposes of
25 determining if probable cause exists for the issuance of a
26 warrant.

1 (b) The district attorney, in the alternative, may
2 present any alleged charge against any public education or
3 public school employee for a criminal act which is alleged to
4 have occurred while the employee was in the performance of
5 official duties to a grand jury to determine if adequate
6 probable cause exists for the issuance of an indictment. No
7 notice, pre-warrant, pre-indictment, or post-indictment
8 procedure set forth in this act regarding any public education
9 or public school employee shall apply to an investigation or
10 presentment to a grand jury of the jurisdiction by the
11 district attorney.

12 (c) Nothing in this act shall prohibit a law
13 enforcement officer from making a warrantless arrest against a
14 public education or public school employee where the offense,
15 violation of law, or unlawful act occurred in his or her
16 presence or he or she has probable cause to make an arrest.

17 (d) This act shall not prohibit the issuance of an
18 arrest warrant by a magistrate or a circuit, district, or
19 municipal judge against any public education or public school
20 employee for a criminal act which is alleged to have occurred
21 while the employee was in the performance of official duties
22 upon presentation of probable cause if adequate evidence is
23 presented to satisfy the magistrate or a circuit, district or
24 municipal judge that there is a significant risk that the
25 accused will flee the jurisdiction or that the accused poses a
26 threat to the safety or well-being of any person.

1 Section 3. This act shall become effective on July
2 1, 2015, following its passage and approval by the Governor,
3 or its otherwise becoming law.