

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.