

By: Representative Gibbs

To: Juvenile Justice;
Appropriations

HOUSE BILL NO. 331

1 AN ACT TO AMEND SECTION 37-13-91, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE FOR A SCHOOL ATTENDANCE OFFICE ADMINISTRATOR TO SERVE
3 AS JUVENILE INTERVENTION PROGRAM COORDINATOR; AND FOR RELATED
4 PURPOSES.

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

6 SECTION 1. Section 37-13-91, Mississippi Code of 1972, is
7 amended as follows:

8 37-13-91. (1) This section shall be referred to as the
9 "Mississippi Compulsory School Attendance Law."

10 (2) The following terms as used in this section are defined
11 as follows:

12 (a) "Parent" means the father or mother to whom a child
13 has been born, or the father or mother by whom a child has been
14 legally adopted.

15 (b) "Guardian" means a guardian of the person of a
16 child, other than a parent, who is legally appointed by a court of
17 competent jurisdiction.

18 (c) "Custodian" means any person having the present
19 care or custody of a child, other than a parent or guardian of the
20 child.

21 (d) "School day" means not less than five (5) and not
22 more than eight (8) hours of actual teaching in which both
23 teachers and pupils are in regular attendance for scheduled
24 schoolwork.

25 (e) "School" means any public school in this state or
26 any nonpublic school in this state which is in session each school
27 year for at least one hundred eighty (180) school days, except
28 that the "nonpublic" school term shall be the number of days that

each school shall require for promotion from grade to grade.

(f) "Compulsory-school-age child" means a child who has attained or will attain the age of six (6) years on or before September 1 of the calendar year and who has not attained the age of seventeen (17) years on or before September 1 of the calendar year.

(g) "School attendance officer" means a person employed by the State Department of Education pursuant to Section 37-13-89.

(h) "Appropriate school official" means the superintendent of the school district or his designee or, in the case of a nonpublic school, the principal or the headmaster.

(i) "Nonpublic school" means an institution for the teaching of children, consisting of a physical plant, whether owned or leased, including a home, instructional staff members and students, and which is in session each school year. This definition shall include, but not be limited to, private, church, parochial and home instruction programs.

(3) A parent, guardian or custodian of a compulsory-school-age child in this state shall cause the child to enroll in and attend a public school or legitimate nonpublic school for the period of time that the child is of compulsory school age, except under the following circumstances:

(a) When a compulsory-school-age child is physically, mentally or emotionally incapable of attending school as determined by the appropriate school official based upon sufficient medical documentation.

(b) When a compulsory-school-age child is enrolled in and pursuing a course of special education, remedial education or education for handicapped or physically or mentally disadvantaged children.

(c) When a compulsory-school-age child is being educated in a legitimate home instruction program.

The parent, guardian or custodian of a compulsory-school-age child described in this subsection, or the parent, guardian or custodian of a compulsory-school-age child attending any nonpublic school, or the appropriate school official for any or all children attending a nonpublic school shall complete a "certificate of enrollment" in order to facilitate the administration of this

67 section.

68 The form of the certificate of enrollment shall be prepared
69 by the Office of Compulsory School Attendance Enforcement of the
70 State Department of Education and shall be designed to obtain the
71 following information only:

72 (i) The name, address, telephone number and date
73 of birth of the compulsory-school-age child;

74 (ii) The name, address and telephone number of the
75 parent, guardian or custodian of the compulsory-school-age child;

76 (iii) A simple description of the type of
77 education the compulsory-school-age child is receiving and, if the
78 child is enrolled in a nonpublic school, the name and address of
79 the school; and

80 (iv) The signature of the parent, guardian or
81 custodian of the compulsory-school-age child or, for any or all
82 compulsory-school-age child or children attending a nonpublic
83 school, the signature of the appropriate school official and the
84 date signed.

85 The certificate of enrollment shall be returned to the school
86 attendance officer where the child resides on or before September
87 15 of each year. Any parent, guardian or custodian found by the
88 school attendance officer to be in noncompliance with this section
89 shall comply, after written notice of the noncompliance by the
90 school attendance officer, with this subsection within ten (10)
91 days after the notice or be in violation of this section.

92 However, in the event the child has been enrolled in a public
93 school within fifteen (15) calendar days after the first day of
94 the school year as required in subsection (6), the parent or
95 custodian may at a later date enroll the child in a legitimate
96 nonpublic school or legitimate home instruction program and send
97 the certificate of enrollment to the school attendance officer and
98 be in compliance with this subsection.

99 For the purposes of this subsection, a legitimate nonpublic
100 school or legitimate home instruction program shall be those not

operated or instituted for the purpose of avoiding or circumventing the compulsory attendance law.

(4) An "unlawful absence" is an absence during a school day by a compulsory-school-age child, which absence is not due to a valid excuse for temporary nonattendance. Days missed from school due to disciplinary suspension shall not be considered an "excused" absence under this section. This subsection shall not apply to children enrolled in a nonpublic school.

Each of the following shall constitute a valid excuse for temporary nonattendance of a compulsory-school-age child enrolled in a public school, provided satisfactory evidence of the excuse is provided to the superintendent of the school district or his designee:

(a) An absence is excused when the absence results from the compulsory-school-age child's attendance at an authorized school activity with the prior approval of the superintendent of the school district or his designee. These activities may include field trips, athletic contests, student conventions, musical festivals and any similar activity.

(b) An absence is excused when the absence results from illness or injury which prevents the compulsory-school-age child from being physically able to attend school.

(c) An absence is excused when isolation of a compulsory-school-age child is ordered by the county health officer, by the State Board of Health or appropriate school official.

(d) An absence is excused when it results from the death or serious illness of a member of the immediate family of a compulsory-school-age child. The immediate family members of a compulsory-school-age child shall include children, spouse, grandparents, parents, brothers and sisters, including stepbrothers and stepsisters.

(e) An absence is excused when it results from a medical or dental appointment of a compulsory-school-age child

135 where an approval of the superintendent of the school district or
136 his designee is gained before the absence, except in the case of
137 emergency.

138 (f) An absence is excused when it results from the
139 attendance of a compulsory-school-age child at the proceedings of
140 a court or an administrative tribunal if the child is a party to
141 the action or under subpoena as a witness.

142 (g) An absence may be excused if the religion to which
143 the compulsory-school-age child or the child's parents adheres,
144 requires or suggests the observance of a religious event. The
145 approval of the absence is within the discretion of the
146 superintendent of the school district or his designee, but
147 approval should be granted unless the religion's observance is of
148 such duration as to interfere with the education of the child.

149 (h) An absence may be excused when it is demonstrated
150 to the satisfaction of the superintendent of the school district
151 or his designee that the purpose of the absence is to take
152 advantage of a valid educational opportunity such as travel
153 including vacations or other family travel. Approval of the
154 absence must be gained from the superintendent of the school
155 district or his designee before the absence, but the approval
156 shall not be unreasonably withheld.

157 (i) An absence may be excused when it is demonstrated
158 to the satisfaction of the superintendent of the school district
159 or his designee that conditions are sufficient to warrant the
160 compulsory-school-age child's nonattendance. However, no absences
161 shall be excused by the school district superintendent or his
162 designee when any student suspensions or expulsions circumvent the
163 intent and spirit of the compulsory attendance law.

164 (5) Any parent, guardian or custodian of a
165 compulsory-school-age child subject to this section who refuses or
166 willfully fails to perform any of the duties imposed upon him or
167 her under this section or who intentionally falsifies any
168 information required to be contained in a certificate of

enrollment, shall be guilty of contributing to the neglect of a child and, upon conviction, shall be punished in accordance with Section 97-5-39.

Upon prosecution of a parent, guardian or custodian of a compulsory-school-age child for violation of this section, the presentation of evidence by the prosecutor that shows that the child has not been enrolled in school within eighteen (18) calendar days after the first day of the school year of the public school which the child is eligible to attend, or that the child has accumulated twelve (12) unlawful absences during the school year at the public school in which the child has been enrolled, shall establish a prima facie case that the child's parent, guardian or custodian is responsible for the absences and has refused or willfully failed to perform the duties imposed upon him or her under this section. However, no proceedings under this section shall be brought against a parent, guardian or custodian of a compulsory-school-age child unless the school attendance officer has contacted promptly the home of the child and has provided written notice to the parent, guardian or custodian of the requirement for the child's enrollment or attendance.

(6) If a compulsory-school-age child has not been enrolled in a school within fifteen (15) calendar days after the first day of the school year of the school which the child is eligible to attend or the child has accumulated five (5) unlawful absences during the school year of the public school in which the child is enrolled, the school district superintendent shall report, within two (2) school days or within five (5) calendar days, whichever is less, the absences to the school attendance officer. The State Department of Education shall prescribe a uniform method for schools to utilize in reporting the unlawful absences to the school attendance officer. The superintendent, or his designee, also shall report any student suspensions or student expulsions to the school attendance officer when they occur.

(7) When a school attendance officer has made all attempts

to secure enrollment and/or attendance of a compulsory-school-age child and is unable to effect the enrollment and/or attendance, the attendance officer shall file a petition with the youth court under Section 43-21-451 or shall file a petition in a court of competent jurisdiction as it pertains to parent or child. The youth court shall expedite a hearing to make an appropriate adjudication and a disposition to ensure compliance with the Compulsory School Attendance Law, and may order the child to enroll or reenroll in school. The superintendent of the school district to which the child is ordered may assign, in his discretion, the child to the alternative school program of the school established pursuant to Section 37-13-92.

(8) The State Board of Education shall adopt rules and regulations for the purpose of reprimanding any school superintendents who fail to timely report unexcused absences under the provisions of this section.

(9) Notwithstanding any provision or implication herein to the contrary, it is not the intention of this section to impair the primary right and the obligation of the parent or parents, or person or persons in loco parentis to a child, to choose the proper education and training for such child, and nothing in this section shall ever be construed to grant, by implication or otherwise, to the State of Mississippi, any of its officers, agencies or subdivisions any right or authority to control, manage, supervise or make any suggestion as to the control, management or supervision of any private or parochial school or institution for the education or training of children, of any kind whatsoever that is not a public school according to the laws of this state; and this section shall never be construed so as to grant, by implication or otherwise, any right or authority to any state agency or other entity to control, manage, supervise, provide for or affect the operation, management, program, curriculum, admissions policy or discipline of any such school or home instruction program.

237 (10) The district attorney may appoint an administrator to
238 supervise and direct the school attendance officers in his
239 district. If an administrator is appointed, the district attorney
240 shall establish a juvenile intervention program pursuant to the
241 requirements for the adult pretrial intervention program, as
242 provided in Section 99-15-101 et seq. The administrator shall
243 assist school attendance officers in coordinating juvenile
244 prevention, treatment and rehabilitation programs, such as, but
245 not limited to, in- and out-patient drug counseling, conflict
246 resolution meetings, parenting classes for juveniles and their
247 parents, juvenile jail tours, mentor programs, victim impact
248 panels and prisoner panels.

249 Participation in any intervention programs established shall
250 not be limited to juveniles found in violation of this section.
251 The administrator may accept into the program juveniles pursuant
252 to order of the youth court and juveniles referred to the program
253 by parental consent.

254 The salary for the administrator shall be the same as that of
255 a school attendance officer set forth in this section. The salary
256 may be supplemented by administrative fees paid by the
257 intervention program participant. However, the maximum salary of
258 the administrator shall not exceed that of a district attorney's
259 investigator as provided in Section 25-31-10. The duties of the
260 administrator shall not be limited to those duties provided in
261 this section.

262 SECTION 2. This act shall take effect and be in force from
263 and after July 1, 1999.