

By: Representatives Wallace, Evans, Robinson To: Education;
(63rd) Appropriations

HOUSE BILL NO. 1285

1 AN ACT TO AMEND SECTION 37-13-89, MISSISSIPPI CODE OF 1972,
2 TO TRANSFER THE SUPERVISORY AUTHORITY OF THE STATE DEPARTMENT OF
3 EDUCATION OVER SCHOOL ATTENDANCE OFFICERS TO LOCAL SCHOOL
4 DISTRICTS AND TO CLARIFY THE STATE FUNDING OF SCHOOL ATTENDANCE
5 OFFICERS; TO AMEND SECTIONS 37-13-91 AND 37-13-107, MISSISSIPPI
6 CODE OF 1972, IN CONFORMITY TO THE PROVISIONS OF THIS ACT; TO
7 REPEAL SECTIONS 37-13-81, 37-13-83 AND 37-13-85, MISSISSIPPI CODE
8 OF 1972, WHICH CREATE THE OFFICE OF COMPULSORY SCHOOL ATTENDANCE
9 ENFORCEMENT WITHIN THE STATE DEPARTMENT OF EDUCATION, PROVIDE FOR
10 THE APPOINTMENT OF A DIRECTOR FOR THE OFFICE, AND PRESCRIBE ITS
11 POWERS AND DUTIES; TO REPEAL SECTION 37-13-87, MISSISSIPPI CODE OF
12 1972, WHICH PROVIDES FOR THE EMPLOYMENT OF SCHOOL ATTENDANCE
13 OFFICER SUPERVISORS BY THE STATE DEPARTMENT OF EDUCATION; AND FOR
14 RELATED PURPOSES.

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

16 SECTION 1. Section 37-13-89, Mississippi Code of 1972, is
17 amended as follows:

18 37-13-89. (1) In each school district within the state,
19 there shall be employed the number of school attendance
20 officers * * * necessary to adequately enforce the provisions of
21 the Mississippi Compulsory School Attendance Law; however, the
22 total number of positions funded by the state shall not exceed one
23 hundred fifty-three (153) school attendance officers at any time.

24 From and after July 1, 1999, all school attendance officers
25 employed pursuant to this section shall be employees of the local
26 school districts. The local school districts shall employ all
27 persons employed as school attendance officers by the State
28 Department of Education before July 1, 1999, and shall assign them
29 to school attendance responsibilities in the school district in
30 which they were employed before July 1, 1998. The State
31 Department of Education shall allot funds to school districts for
32 the employment of school attendance officers and shall provide
33 funding for no less than one (1) school attendance officer per

34 school district.

35 (2) Each school attendance officer shall possess a college
36 degree with a major in a behavioral science or a related field or
37 shall have no less than three (3) years combined actual experience
38 as a school teacher, school administrator, law enforcement officer
39 possessing such degree, and/or social worker; however, these
40 requirements shall not apply to persons employed as school
41 attendance officers before January 1, 1987. * * *

42 (3) It shall be the duty of each school attendance officer
43 to:

44 (a) Cooperate with any public agency to locate and
45 identify all compulsory-school-age children who are not attending
46 school;

47 (b) Cooperate with all courts of competent
48 jurisdiction;

49 (c) Investigate all cases of nonattendance and unlawful
50 absences by compulsory-school-age children not enrolled in a
51 nonpublic school;

52 (d) Provide appropriate counseling to encourage all
53 school-age children to attend school until they have completed
54 high school;

55 (e) Attempt to secure the provision of social or
56 welfare services that may be required to enable any child to
57 attend school;

58 (f) Contact the home or place of residence of a
59 compulsory-school-age child and any other place in which the
60 officer is likely to find any compulsory-school-age child when the
61 child is absent from school during school hours without a valid
62 written excuse from school officials, and when the child is found,
63 the officer shall notify the parents and school officials as to
64 where the child was physically located;

65 (g) Contact promptly the home of each
66 compulsory-school-age child in the school district within the
67 officer's jurisdiction who is not enrolled in school or is not in
68 attendance at public school and is without a valid written excuse
69 from school officials; if no valid reason is found for the
70 nonenrollment or absence from the school, the school attendance
71 officer shall give written notice to the parent, guardian or

72 custodian of the requirement for the child's enrollment or
73 attendance;

74 (h) Collect and maintain information concerning
75 absenteeism, dropouts and other attendance-related problems, as
76 may be required by law * * *; and

77 (i) Perform all other duties relating to compulsory
78 school attendance established by the local school district.

79 (4) While engaged in the performance of his duties, each
80 school attendance officer shall carry on his person a badge
81 identifying him as a school attendance officer under the local
82 school district and an identification card designed by the
83 Commissioner of Public Safety and issued by the school
84 superintendent. Neither the badge nor the identification card
85 shall bear the name of any elected public official.

86 (5) The salary scale for school attendance officers shall be
87 as follows:

88 (a) For school attendance officers holding a bachelor's
89 degree or any other attendance officer who does not hold such a
90 degree, the annual salary shall be based on years of experience as
91 a school attendance officer or related field of service or
92 employment, no less than as follows:

93	Years of Experience	Salary
94	0 - 4 years	\$19,650.00
95	5 - 8 years	21,550.00
96	9 - 12 years	23,070.00
97	13 - 16 years	24,590.00
98	Over 17 years	26,110.00

99 (b) For school attendance officers holding a license as
100 a social worker, the annual salary shall be based on years of
101 experience as a school attendance officer or related field of
102 service or employment, no less than as follows:

103	Years of Experience	Salary
104	0 - 4 years	\$20,650.00
105	5 - 8 years	22,950.00

106	9 - 12 years	24,790.00
107	13 - 16 years	26,630.00
108	17 - 20 years	28,470.00
109	Over 21 years	30,310.00

110 (c) For school attendance officers holding a master's
 111 degree in a behavioral science or a related field, the annual
 112 salary shall be based on years of experience as a school
 113 attendance officer or related field of service or employment, no
 114 less than as follows:

115	Years of Experience	Salary
116	0 - 4 years	\$21,450.00
117	5 - 8 years	24,000.00
118	9 - 12 years	26,040.00
119	13 - 16 years	28,080.00
120	17 - 20 years	30,120.00
121	Over 21 years	32,160.00

122 SECTION 2. Section 37-13-91, Mississippi Code of 1972, is
 123 amended as follows:

124 37-13-91. (1) This section shall be referred to as the
 125 "Mississippi Compulsory School Attendance Law."

126 (2) The following terms as used in this section are defined
 127 as follows:

128 (a) "Parent" means the father or mother to whom a child
 129 has been born, or the father or mother by whom a child has been
 130 legally adopted.

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

134 (c) "Custodian" means any person having the present
 135 care or custody of a child, other than a parent or guardian of the
 136 child.

137 (d) "School day" means not less than five (5) and not
 138 more than eight (8) hours of actual teaching in which both
 139 teachers and pupils are in regular attendance for scheduled

140 schoolwork.

141 (e) "School" means any public school in this state or
142 any nonpublic school in this state which is in session each school
143 year for at least one hundred eighty (180) school days, except
144 that the "nonpublic" school term shall be the number of days that
145 each school shall require for promotion from grade to grade.

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

151 (g) "School attendance officer" means a person employed
152 by a local school district pursuant to Section 37-13-89.

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

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

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

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

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

174 children.

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

177 The parent, guardian or custodian of a compulsory-school-age
178 child described in this subsection, or the parent, guardian or
179 custodian of a compulsory-school-age child attending any nonpublic
180 school, or the appropriate school official for any or all children
181 attending a nonpublic school shall complete a "certificate of
182 enrollment" in order to facilitate the administration of this
183 section.

184 The form of the certificate of enrollment shall be prepared
185 by the * * * State Department of Education and shall be designed
186 to obtain the following information only:

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

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

191 (iii) A simple description of the type of
192 education the compulsory-school-age child is receiving and, if the
193 child is enrolled in a nonpublic school, the name and address of
194 the school; and

195 (iv) The signature of the parent, guardian or
196 custodian of the compulsory-school-age child or, for any or all
197 compulsory-school-age child or children attending a nonpublic
198 school, the signature of the appropriate school official and the
199 date signed.

200 The certificate of enrollment shall be returned to the school
201 attendance officer where the child resides on or before September
202 15 of each year. Any parent, guardian or custodian found by the
203 school attendance officer to be in noncompliance with this section
204 shall comply, after written notice of the noncompliance by the
205 school attendance officer, with this subsection within ten (10)
206 days after the notice or be in violation of this section.

207 However, in the event the child has been enrolled in a public

208 school within fifteen (15) calendar days after the first day of
209 the school year as required in subsection (6), the parent or
210 custodian may at a later date enroll the child in a legitimate
211 nonpublic school or legitimate home instruction program and send
212 the certificate of enrollment to the school attendance officer and
213 be in compliance with this subsection.

214 For the purposes of this subsection, a legitimate nonpublic
215 school or legitimate home instruction program shall be those not
216 operated or instituted for the purpose of avoiding or
217 circumventing the compulsory attendance law.

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

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

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

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

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

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

248 (e) An absence is excused when it results from a
249 medical or dental appointment of a compulsory-school-age child
250 where an approval of the superintendent of the school district or
251 his designee is gained before the absence, except in the case of
252 emergency.

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

257 (g) An absence may be excused if the religion to which
258 the compulsory-school-age child or the child's parents adheres,
259 requires or suggests the observance of a religious event. The
260 approval of the absence is within the discretion of the
261 superintendent of the school district or his designee, but
262 approval should be granted unless the religion's observance is of
263 such duration as to interfere with the education of the child.

264 (h) An absence may be excused when it is demonstrated
265 to the satisfaction of the superintendent of the school district
266 or his designee that the purpose of the absence is to take
267 advantage of a valid educational opportunity such as travel
268 including vacations or other family travel. Approval of the
269 absence must be gained from the superintendent of the school
270 district or his designee before the absence, but the approval
271 shall not be unreasonably withheld.

272 (i) An absence may be excused when it is demonstrated
273 to the satisfaction of the superintendent of the school district
274 or his designee that conditions are sufficient to warrant the
275 compulsory-school-age child's nonattendance. However, no absences

276 shall be excused by the school district superintendent or his
277 designee when any student suspensions or expulsions circumvent the
278 intent and spirit of the compulsory attendance law.

279 (5) Any parent, guardian or custodian of a
280 compulsory-school-age child subject to this section who refuses or
281 willfully fails to perform any of the duties imposed upon him or
282 her under this section or who intentionally falsifies any
283 information required to be contained in a certificate of
284 enrollment, shall be guilty of contributing to the neglect of a
285 child and, upon conviction, shall be punished in accordance with
286 Section 97-5-39.

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

304 (6) If a compulsory-school-age child has not been enrolled
305 in a school within fifteen (15) calendar days after the first day
306 of the school year of the school which the child is eligible to
307 attend or the child has accumulated five (5) unlawful absences
308 during the school year of the public school in which the child is
309 enrolled, the school district superintendent shall report, within

310 two (2) school days or within five (5) calendar days, whichever is
311 less, the absences to the school attendance officer. The State
312 Department of Education shall prescribe a uniform method for
313 schools to utilize in reporting the unlawful absences to the
314 school attendance officer. The superintendent, or his designee,
315 also shall report any student suspensions or student expulsions to
316 the school attendance officer when they occur.

317 (7) When a school attendance officer has made all attempts
318 to secure enrollment and/or attendance of a compulsory-school-age
319 child and is unable to effect the enrollment and/or attendance,
320 the attendance officer shall file a petition with the youth court
321 under Section 43-21-451 or shall file a petition in a court of
322 competent jurisdiction as it pertains to parent or child. The
323 youth court shall expedite a hearing to make an appropriate
324 adjudication and a disposition to ensure compliance with the
325 Compulsory School Attendance Law, and may order the child to
326 enroll or reenroll in school. The superintendent of the school
327 district to which the child is ordered may assign, in his
328 discretion, the child to the alternative school program of the
329 school established pursuant to Section 37-13-92.

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

334 (9) Notwithstanding any provision or implication herein to
335 the contrary, it is not the intention of this section to impair
336 the primary right and the obligation of the parent or parents, or
337 person or persons in loco parentis to a child, to choose the
338 proper education and training for such child, and nothing in this
339 section shall ever be construed to grant, by implication or
340 otherwise, to the State of Mississippi, any of its officers,
341 agencies or subdivisions any right or authority to control,
342 manage, supervise or make any suggestion as to the control,
343 management or supervision of any private or parochial school or

344 institution for the education or training of children, of any kind
345 whatsoever that is not a public school according to the laws of
346 this state; and this section shall never be construed so as to
347 grant, by implication or otherwise, any right or authority to any
348 state agency or other entity to control, manage, supervise,
349 provide for or affect the operation, management, program,
350 curriculum, admissions policy or discipline of any such school or
351 home instruction program.

352 SECTION 3. Section 37-13-107, Mississippi Code of 1972, is
353 amended as follows:

354 37-13-107. (1) Every school attendance officer shall be
355 required annually to attend and complete a comprehensive course of
356 training and education which is approved by the * * * State
357 Department of Education. Attendance shall be required beginning
358 with the first training seminar conducted after the school
359 attendance officer is employed as a school attendance officer.

360 (2) The State Department of Education shall approve a course
361 of training and education for school attendance officers of the
362 state. The course shall consist of at least twelve (12) hours of
363 training per year. The content of the course of training and when
364 and where it is to be conducted shall be approved by the
365 department. A certificate of completion shall be furnished to
366 those school attendance officers who complete the course. Each
367 certificate shall be made a permanent record of the school
368 district superintendent's office where the school attendance
369 officer is employed.

370 (3) Upon the failure of any person employed as a school
371 attendance officer to receive the certificate of completion within
372 the first year of his employment, the person shall not be allowed
373 to carry out any of the duties of a school attendance officer and
374 shall not be entitled to compensation for the period of time
375 during which the certificate has not been obtained * * *.

376 SECTION 4. Sections 37-13-81, 37-13-83 and 37-13-85,
377 Mississippi Code of 1972, which create the Office of Compulsory

378 School Attendance Enforcement within the State Department of
379 Education, provide for the appointment of a director for the
380 office, and prescribe its powers and duties, are repealed.
381 Section 37-13-87, Mississippi Code of 1972, which provides for the
382 employment of three (3) school attendance officer supervisors by
383 the State Department of Education, is repealed.

384 SECTION 5. This act shall take effect and be in force from
385 and after July 1, 1999.