

**\*\*\*Adopted\*\*\***

**AMENDMENT No. 1 TO AMENDMENT No. 1 PROPOSED TO**

**House Bill NO. 1191**

**By Senator(s) Burton, Carlton, Hamilton**

1           **AMEND** by inserting the following after line 248 and  
2 **renumbering:**

3           SECTION \*. Section 37-13-91, Mississippi Code of 1972, is  
4 amended as follows:

5           37-13-91. (1) This section shall be referred to as the  
6 "Mississippi Compulsory School Attendance Law."

7           (2) The following terms as used in this section are defined  
8 as follows:

9           (a) "Parent" means the father or mother to whom a child  
10 has been born, or the father or mother by whom a child has been  
11 legally adopted.

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

15           (c) "Custodian" means any person having the present  
16 care or custody of a child, other than a parent or guardian of the  
17 child.

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

22           (e) "School" means any public school in this state or  
23 any nonpublic school in this state which is in session each school

24 year for at least one hundred eighty (180) school days, except  
25 that the "nonpublic" school term shall be the number of days that  
26 each school shall require for promotion from grade to grade.

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

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

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

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

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

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

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

56 (c) When a compulsory-school-age child is being

57 educated in a legitimate home instruction program.

58         The parent, guardian or custodian of a compulsory-school-age  
59 child described in this subsection, or the parent, guardian or  
60 custodian of a compulsory-school-age child attending any nonpublic  
61 school, or the appropriate school official for any or all children  
62 attending a nonpublic school shall complete a "certificate of  
63 enrollment" in order to facilitate the administration of this  
64 section.

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

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

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

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

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

82         The certificate of enrollment shall be returned to the school  
83 attendance officer where the child resides on or before September  
84 15 of each year. Any parent, guardian or custodian found by the  
85 school attendance officer to be in noncompliance with this section  
86 shall comply, after written notice of the noncompliance by the  
87 school attendance officer, with this subsection within ten (10)  
88 days after the notice or be in violation of this section.

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

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

96 For the purposes of this subsection, a legitimate nonpublic  
97 school or legitimate home instruction program shall be those not  
98 operated or instituted for the purpose of avoiding or  
99 circumventing the compulsory attendance law.

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

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

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

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

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

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123 official.

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

130 (e) An absence is excused when it results from a  
131 medical or dental appointment of a compulsory-school-age child  
132 where an approval of the superintendent of the school district or  
133 his designee is gained before the absence, except in the case of  
134 emergency.

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

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

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

154 (i) An absence is excused when the absence results from  
155 the compulsory-school-age child's participation at an authorized

156 Future Farmers of America (FFA) or Four-H (4-H) livestock show if  
157 the child is showing livestock at the event.

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

165 (5) Any parent, guardian or custodian of a  
166 compulsory-school-age child subject to this section who refuses or  
167 willfully fails to perform any of the duties imposed upon him or  
168 her under this section or who intentionally falsifies any  
169 information required to be contained in a certificate of  
170 enrollment, shall be guilty of contributing to the neglect of a  
171 child and, upon conviction, shall be punished in accordance with  
172 Section 97-5-39.

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

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189 the requirement for the child's enrollment or attendance.

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

203 (7) When a school attendance officer has made all attempts  
204 to secure enrollment and/or attendance of a compulsory-school-age  
205 child and is unable to effect the enrollment and/or attendance,  
206 the attendance officer shall file a petition with the youth court  
207 under Section 43-21-451 or shall file a petition in a court of  
208 competent jurisdiction as it pertains to parent or child. The  
209 youth court shall expedite a hearing to make an appropriate  
210 adjudication and a disposition to ensure compliance with the  
211 Compulsory School Attendance Law, and may order the child to  
212 enroll or reenroll in school. The superintendent of the school  
213 district to which the child is ordered may assign, in his  
214 discretion, the child to the alternative school program of the  
215 school established pursuant to Section 37-13-92.

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

220 (9) Notwithstanding any provision or implication herein to  
221 the contrary, it is not the intention of this section to impair

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222 the primary right and the obligation of the parent or parents, or  
223 person or persons in loco parentis to a child, to choose the  
224 proper education and training for such child, and nothing in this  
225 section shall ever be construed to grant, by implication or  
226 otherwise, to the State of Mississippi, any of its officers,  
227 agencies or subdivisions any right or authority to control,  
228 manage, supervise or make any suggestion as to the control,  
229 management or supervision of any private or parochial school or  
230 institution for the education or training of children, of any kind  
231 whatsoever that is not a public school according to the laws of  
232 this state; and this section shall never be construed so as to  
233 grant, by implication or otherwise, any right or authority to any  
234 state agency or other entity to control, manage, supervise,  
235 provide for or affect the operation, management, program,  
236 curriculum, admissions policy or discipline of any such school or  
237 home instruction program.

238 **FURTHER, amend the title by inserting the following after the**  
239 **semicolon on line 19:**

240 TO AMEND SECTION 37-13-91, MISSISSIPPI CODE OF 1972, TO PROVIDE  
241 THAT AN ABSENCE RESULTING FROM A STUDENT'S PARTICIPATION IN AN FFA  
242 OR FOUR-H LIVESTOCK SHOW SHALL BE EXCUSED UNDER THE  
243 COMPULSORY-SCHOOL-ATTENDANCE LAW;