

By: Flaggs

To: Education

HOUSE BILL NO. 14

1 AN ACT TO AMEND SECTIONS 37-13-91 AND 37-15-9, MISSISSIPPI
2 CODE OF 1972, TO INCLUDE KINDERGARTEN-AGE CHILDREN UNDER THE
3 MISSISSIPPI COMPULSORY SCHOOL ATTENDANCE LAW; 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
29 each school shall require for promotion from grade to grade.

30 (f) "Compulsory-school-age child" means a child who has
31 attained or will attain the age of five (5) years on or before
32 September 1 of the calendar year and who has not attained the age
33 of seventeen (17) years on or before September 1 of the calendar
34 year.

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

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

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

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

51 (a) When a compulsory-school-age child is physically,
52 mentally or emotionally incapable of attending school as
53 determined by the appropriate school official based upon

54 sufficient medical documentation.

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

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

61 The parent, guardian or custodian of a compulsory-school-age
62 child described in this subsection, or the parent, guardian or
63 custodian of a compulsory-school-age child attending any nonpublic
64 school, or the appropriate school official for any or all children
65 attending a nonpublic school shall complete a "certificate of
66 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
101 operated or instituted for the purpose of avoiding or
102 circumventing the compulsory attendance law.

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

109 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 where an approval of the superintendent of the school district or his designee is gained before the absence, except in the case of 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

willfully fails to perform any of the duties imposed upon him or her under this section or who intentionally falsifies any 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

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

237 SECTION 2. Section 37-15-9, Mississippi Code of 1972, is
238 amended as follows:

239 37-15-9. (1) Except as provided in subsection (2) and
240 subject to the provision of subsection (3) of this section, no
241 child shall be enrolled or admitted to any school which is a part
242 of the free public school system during any school year unless
243 such child will reach his fifth birthday on or before September 1
244 of said school year. No pupil shall be permanently enrolled in a
245 school in the State of Mississippi who formerly was enrolled in
246 another public or private school within the state until the
247 cumulative record of the pupil shall have been received from the
248 school from which he transferred. Should such record have become
249 lost or destroyed, then it shall be the duty of the superintendent

or principal of the school where the pupil last attended school to initiate a new record.

(2) Subject to the provisions of subsection (3) of this section, any child who transfers from an out-of-state public or private school in which that state's law provides for a first-grade or kindergarten enrollment date subsequent to September 1, shall be allowed to enroll in the public schools of Mississippi, at the same grade level as their prior out-of-state enrollment, if:

(a) The parent, legal guardian or custodian of such child was a legal resident of the state from which the child is transferring;

(b) The out-of-state school from which the child is transferring is duly accredited by that state's appropriate accrediting authority;

(c) Such child was legally enrolled in a public or private school for a minimum of four (4) weeks in the previous state; and

(d) The superintendent of schools in the applicable Mississippi school district has determined that the child was making satisfactory educational progress in the previous state.

(3) When any child applies for admission or enrollment in any public school in the state, the parent, guardian or child, in the absence of an accompanying parent or guardian, shall indicate on the school registration form if the enrolling child has been expelled from any public or private school or is currently a party to an expulsion proceeding. If it is determined from the child's cumulative record or application for admission or enrollment that

278 the child has been expelled, the school district may deny the
279 student admission and enrollment until the superintendent of the
280 school or his designee has reviewed the child's cumulative record
281 and determined that the child has participated in successful
282 rehabilitative efforts including, but not limited to, progress in
283 an alternative school or similar program. If the child is a party
284 to an expulsion proceeding, the child may be admitted to a public
285 school pending final disposition of the expulsion proceeding. If
286 the expulsion proceeding results in the expulsion of the child,
287 the public school may revoke such admission to school. If the
288 child was expelled or is a party to an expulsion proceeding for an
289 act involving violence, weapons, alcohol, illegal drugs or other
290 activity that may result in expulsion, the school district shall
291 not be required to grant admission or enrollment to the child
292 before one (1) calendar year after the date of the expulsion.

293 SECTION 3. This act shall take effect and be in force from
294 and after July 1, 2000.