

By: Representative Zuber

To: Education

HOUSE BILL NO. 62

1 AN ACT TO AMEND SECTION 37-13-91, MISSISSIPPI CODE OF 1972,
2 TO INCLUDE PERSONS WHO ARE 17 YEARS OF AGE UNDER THE MISSISSIPPI
3 COMPULSORY SCHOOL ATTENDANCE LAW; AND FOR RELATED PURPOSES.

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

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

7 37-13-91. (1) This section shall be referred to as the
8 "Mississippi Compulsory School Attendance Law."

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

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

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

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

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

24 (e) "School" means any public school in this state or
25 any nonpublic school in this state which is in session each school
26 year for at least one hundred eighty (180) school days, except

27 that the "nonpublic" school term shall be the number of days that
28 each school shall require for promotion from grade to grade.

29 (f) "Compulsory-school-age child" means a child who has
30 attained or will attain the age of six (6) years on or before
31 September 1 of the calendar year and who has not attained the age
32 of eighteen (18) years on or before September 1 of the calendar
33 year.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

91 However, in the event the child has been enrolled in a public
92 school within fifteen (15) calendar days after the first day of

93 the school year as required in subsection (6), the parent or
94 custodian may at a later date enroll the child in a legitimate
95 nonpublic school or legitimate home instruction program and send
96 the certificate of enrollment to the school attendance officer and
97 be in compliance with this subsection.

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

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

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

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

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

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

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

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

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

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

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

156 (i) An absence may be excused when it is demonstrated
157 to the satisfaction of the superintendent of the school district
158 or his designee that conditions are sufficient to warrant the

159 compulsory-school-age child's nonattendance. However, no absences
160 shall be excused by the school district superintendent or his
161 designee when any student suspensions or expulsions circumvent the
162 intent and spirit of the compulsory attendance law.

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

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

188 (6) If a compulsory-school-age child has not been enrolled
189 in a school within fifteen (15) calendar days after the first day
190 of the school year of the school which the child is eligible to
191 attend or the child has accumulated five (5) unlawful absences

192 during the school year of the public school in which the child is
193 enrolled, the school district superintendent shall report, within
194 two (2) school days or within five (5) calendar days, whichever is
195 less, the absences to the school attendance officer. The State
196 Department of Education shall prescribe a uniform method for
197 schools to utilize in reporting the unlawful absences to the
198 school attendance officer. The superintendent, or his designee,
199 also shall report any student suspensions or student expulsions to
200 the school attendance officer when they occur.

201 (7) When a school attendance officer has made all attempts
202 to secure enrollment and/or attendance of a compulsory-school-age
203 child and is unable to effect the enrollment and/or attendance,
204 the attendance officer shall file a petition with the youth court
205 under Section 43-21-451 or shall file a petition in a court of
206 competent jurisdiction as it pertains to parent or child.
207 Sheriffs, deputy sheriffs and municipal law enforcement officers
208 shall be fully authorized to investigate all cases of
209 nonattendance and unlawful absences by compulsory-school-age
210 children, and shall be authorized to file a petition with the
211 youth court under Section 43-21-451 or file a petition or
212 information in the court of competent jurisdiction as it pertains
213 to parent or child for violation of this section. The youth court
214 shall expedite a hearing to make an appropriate adjudication and a
215 disposition to ensure compliance with the Compulsory School
216 Attendance Law, and may order the child to enroll or reenroll in
217 school. The superintendent of the school district to which the
218 child is ordered may assign, in his discretion, the child to the
219 alternative school program of the school established pursuant to
220 Section 37-13-92.

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

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

243 SECTION 2. This act shall take effect and be in force from
244 and after July 1, 2001.