

By: Representatives Warren, Scott (17th)

To: Education

HOUSE BILL NO. 300

1 AN ACT TO AMEND SECTION 37-13-91, MISSISSIPPI CODE OF 1972,  
2 TO INCLUDE IN THE DEFINITION OF THE TERM "COMPULSORY-SCHOOL-AGE  
3 CHILD" THOSE STUDENTS WHO TURN SEVENTEEN YEARS OF AGE DURING THE  
4 SCHOOL YEAR; AND FOR RELATED 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 six (6) years on or before  
32 September 1 of the calendar year, who has not attained the age of  
33 seventeen (17) years on or before September 1 of the calendar  
34 year, and if the child's birthday occurs during the school year,  
35 who has not completed the school year during which the child  
36 attains the age of seventeen (17) years.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

125 (c) An absence is excused when isolation of a  
126 compulsory-school-age child is ordered by the county health

127 officer, by the State Board of Health or appropriate school  
128 official.

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

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

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

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

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

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

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

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

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

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

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

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

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