

By: Representatives Warren, Lott

To: Education

## HOUSE BILL NO. 302

1       AN ACT TO AMEND SECTION 37-13-91, MISSISSIPPI CODE OF 1972,  
2 TO REVISE THE DATE BY WHICH PARENTS OF SCHOOL-AGE CHILDREN MUST  
3 RETURN CERTIFICATES OF ENROLLMENT TO SCHOOL ATTENDANCE OFFICERS;  
4 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 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 annually to  
86 the school attendance officer where the child resides \* \* \* before  
87 the end of the tenth school day of the school year of the school  
88 that the child is eligible to attend. Any parent, guardian or  
89 custodian found by the school attendance officer to be in  
90 noncompliance with this section shall comply, after written notice  
91 of the noncompliance by the school attendance officer, with this  
92 subsection within ten (10) days after the notice or be in  
93 violation of this section. However, in the event the child has



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

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

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

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

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

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

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



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

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

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

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

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

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



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



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

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

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

