

By: Senator(s) Minor

To: Education

SENATE BILL NO. 2151

1 AN ACT TO AMEND SECTION 37-13-91, MISSISSIPPI CODE OF 1972,
2 TO DELETE THE AUTHORITY OF COMPULSORY SCHOOL ATTENDANCE OFFICERS
3 TO REQUIRE A DESCRIPTION OF THE INSTRUCTION PROGRAM TO BE PROVIDED
4 BY PARENTS OF HOME-SCHOOLED CHILDREN; 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) * * * The name and address of the school;

77 and

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

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

90 However, in the event the child has been enrolled in a public
91 school within fifteen (15) calendar days after the first day of
92 the school year as required in subsection (6), the parent or
93 custodian may at a later date enroll the child in a legitimate



94 nonpublic school or legitimate home instruction program and send
95 the certificate of enrollment to the school attendance officer and
96 be in compliance with this subsection.

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

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

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

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

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

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

125 (d) An absence is excused when it results from the
126 death or serious illness of a member of the immediate family of a



127 compulsory-school-age child. The immediate family members of a
128 compulsory-school-age child shall include children, spouse,
129 grandparents, parents, brothers and sisters, including
130 stepbrothers and stepsisters.

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

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

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

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

155 (i) An absence may be excused when it is demonstrated
156 to the satisfaction of the superintendent of the school district
157 or his designee that conditions are sufficient to warrant the
158 compulsory-school-age child's nonattendance. However, no absences
159 shall be excused by the school district superintendent or his



160 designee when any student suspensions or expulsions circumvent the
161 intent and spirit of the compulsory attendance law.

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

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

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



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

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

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

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



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

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

