

By: Representative Lott

To: Education

HOUSE BILL NO. 220

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 ARE ENROLLED IN PUBLIC SCHOOL
4 KINDERGARTEN; AND TO REVISE THE DATE BY WHICH CERTIFICATES OF
5 ENROLLMENT MUST BE RETURNED BY PARENTS TO SCHOOL ATTENDANCE
6 OFFICERS; AND FOR RELATED PURPOSES.

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

8 **SECTION 1.** Section 37-13-91, Mississippi Code of 1972, is
9 amended as follows:

10 37-13-91. (1) This section shall be referred to as the
11 "Mississippi Compulsory School Attendance Law."

12 (2) The following terms as used in this section are defined
13 as follows:

14 (a) "Parent" means the father or mother to whom a child
15 has been born, or the father or mother by whom a child has been
16 legally adopted.

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

20 (c) "Custodian" means any person having the present
21 care or custody of a child, other than a parent or guardian of the
22 child.

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

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



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

32 (f) "Compulsory-school-age child" means a child who:

33 (i) 1. Has attained or will attain the age of six
34 (6) years on or before September 1 of the calendar year; or

35 2. Has not attained or will not attain the
36 age of six (6) years on or before September 1 of the calendar year
37 but who has enrolled in, and not formally withdrawn from, a public
38 school kindergarten program; and

39 (ii) Has not attained the age of seventeen (17)
40 years on or before September 1 of the calendar year.

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

43 (h) "Appropriate school official" means the
44 superintendent of the school district or his designee or, in the
45 case of a nonpublic school, the principal or the headmaster.

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

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

57 (a) When a compulsory-school-age child is physically,
58 mentally or emotionally incapable of attending school as
59 determined by the appropriate school official based upon
60 sufficient medical documentation.

61 (b) When a compulsory-school-age child is enrolled in
62 and pursuing a course of special education, remedial education or



63 education for handicapped or physically or mentally disadvantaged
64 children.

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

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

74 The form of the certificate of enrollment shall be prepared
75 by the Office of Compulsory School Attendance Enforcement of the
76 State Department of Education and shall be designed to obtain the
77 following information only:

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

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

82 (iii) A simple description of the type of
83 education the compulsory-school-age child is receiving and, if the
84 child is enrolled in a nonpublic school, the name and address of
85 the school; and

86 (iv) The signature of the parent, guardian or
87 custodian of the compulsory-school-age child or, for any or all
88 compulsory-school-age child or children attending a nonpublic
89 school, the signature of the appropriate school official and the
90 date signed.

91 The certificate of enrollment shall be returned to the school
92 attendance officer where the child resides * * * before the
93 beginning of the eleventh school day of each year. Any parent,
94 guardian or custodian found by the school attendance officer to be
95 in noncompliance with this section shall be provided a certificate



96 of enrollment form and notified by the school attendance officer,
97 by certified mail, of the legal requirement that the certificate
98 of enrollment be completed and returned to the school attendance
99 officer. If the parent, guardian or custodian does not comply,
100 within the two (2) school days or five (5) calendar days,
101 whichever is less, after receipt of written notice of the
102 noncompliance, the parent, guardian or custodian shall be deemed
103 to be in violation of this section. However, in the event the
104 child has been enrolled in a public school within fifteen (15)
105 calendar days after the first day of the school year as required
106 in subsection (6), the parent or custodian may at a later date
107 enroll the child in a legitimate nonpublic school or legitimate
108 home instruction program and send the certificate of enrollment to
109 the school attendance officer and be in compliance with this
110 subsection.

111 For the purposes of this subsection, a legitimate nonpublic
112 school or legitimate home instruction program shall be those not
113 operated or instituted for the purpose of avoiding or
114 circumventing the compulsory attendance law.

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

121 Each of the following shall constitute a valid excuse for
122 temporary nonattendance of a compulsory-school-age child enrolled
123 in a public school, provided satisfactory evidence of the excuse
124 is provided to the superintendent of the school district or his
125 designee:

126 (a) An absence is excused when the absence results from
127 the compulsory-school-age child's attendance at an authorized
128 school activity with the prior approval of the superintendent of



129 the school district or his designee. These activities may include
130 field trips, athletic contests, student conventions, musical
131 festivals and any similar activity.

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

135 (c) An absence is excused when isolation of a
136 compulsory-school-age child is ordered by the county health
137 officer, by the State Board of Health or appropriate school
138 official.

139 (d) An absence is excused when it results from the
140 death or serious illness of a member of the immediate family of a
141 compulsory-school-age child. The immediate family members of a
142 compulsory-school-age child shall include children, spouse,
143 grandparents, parents, brothers and sisters, including
144 stepbrothers and stepsisters.

145 (e) An absence is excused when it results from a
146 medical or dental appointment of a compulsory-school-age child
147 where an approval of the superintendent of the school district or
148 his designee is gained before the absence, except in the case of
149 emergency.

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

154 (g) An absence may be excused if the religion to which
155 the compulsory-school-age child or the child's parents adheres,
156 requires or suggests the observance of a religious event. The
157 approval of the absence is within the discretion of the
158 superintendent of the school district or his designee, but
159 approval should be granted unless the religion's observance is of
160 such duration as to interfere with the education of the child.



161 (h) An absence may be excused when it is demonstrated
162 to the satisfaction of the superintendent of the school district
163 or his designee that the purpose of the absence is to take
164 advantage of a valid educational opportunity such as travel
165 including vacations or other family travel. Approval of the
166 absence must be gained from the superintendent of the school
167 district or his designee before the absence, but the approval
168 shall not be unreasonably withheld.

169 (i) An absence may be excused when it is demonstrated
170 to the satisfaction of the superintendent of the school district
171 or his designee that conditions are sufficient to warrant the
172 compulsory-school-age child's nonattendance. However, no absences
173 shall be excused by the school district superintendent or his
174 designee when any student suspensions or expulsions circumvent the
175 intent and spirit of the compulsory attendance law.

176 (5) Any parent, guardian or custodian of a
177 compulsory-school-age child subject to this section who refuses or
178 willfully fails to perform any of the duties imposed upon him or
179 her under this section or who intentionally falsifies any
180 information required to be contained in a certificate of
181 enrollment, shall be guilty of contributing to the neglect of a
182 child and, upon conviction, shall be punished in accordance with
183 Section 97-5-39.

184 Upon prosecution of a parent, guardian or custodian of a
185 compulsory-school-age child for violation of this section, the
186 presentation of evidence by the prosecutor that shows that the
187 child has not been enrolled in school within eighteen (18)
188 calendar days after the first day of the school year of the public
189 school which the child is eligible to attend, or that the child
190 has accumulated twelve (12) unlawful absences during the school
191 year at the public school in which the child has been enrolled,
192 shall establish a prima facie case that the child's parent,
193 guardian or custodian is responsible for the absences and has



194 refused or willfully failed to perform the duties imposed upon him
195 or her under this section. However, no proceedings under this
196 section shall be brought against a parent, guardian or custodian
197 of a compulsory-school-age child unless the school attendance
198 officer has contacted promptly the home of the child and has
199 provided written notice to the parent, guardian or custodian of
200 the requirement for the child's enrollment or attendance.

201 (6) If a compulsory-school-age child has not been enrolled
202 in a school within fifteen (15) calendar days after the first day
203 of the school year of the school which the child is eligible to
204 attend or the child has accumulated five (5) unlawful absences
205 during the school year of the public school in which the child is
206 enrolled, the school district superintendent shall report, within
207 two (2) school days or within five (5) calendar days, whichever is
208 less, the absences to the school attendance officer. The State
209 Department of Education shall prescribe a uniform method for
210 schools to utilize in reporting the unlawful absences to the
211 school attendance officer. The superintendent, or his designee,
212 also shall report any student suspensions or student expulsions to
213 the school attendance officer when they occur.

214 (7) When a school attendance officer has made all attempts
215 to secure enrollment * * * or attendance, or both, of a
216 compulsory-school-age child and is unable to effect the
217 enrollment * * * or attendance, or both, the attendance officer
218 shall file a petition with the youth court under Section 43-21-451
219 or shall file a petition in a court of competent jurisdiction as
220 it pertains to parent or child. Sheriffs, deputy sheriffs and
221 municipal law enforcement officers shall be fully authorized to
222 investigate all cases of nonattendance and unlawful absences by
223 compulsory-school-age children, and shall be authorized to file a
224 petition with the youth court under Section 43-21-451 or file a
225 petition or information in the court of competent jurisdiction as
226 it pertains to parent or child for violation of this section. The



227 youth court shall expedite a hearing to make an appropriate
228 adjudication and a disposition to ensure compliance with the
229 Compulsory School Attendance Law, and may order the child to
230 enroll or reenroll in school. The superintendent of the school
231 district to which the child is ordered may assign, in his
232 discretion, the child to the alternative school program of the
233 school established pursuant to Section 37-13-92.

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

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

256 **SECTION 2.** This act shall take effect and be in force from
257 and after July 1, 2003.

