

By: Representative Scott

To: Education

HOUSE BILL NO. 1268

1 AN ACT TO AMEND SECTION 37-13-91, MISSISSIPPI CODE OF 1972,  
 2 TO INCREASE THE AGE OF COMPULSORY SCHOOL ATTENDANCE TO EIGHTEEN  
 3 AND TO INCLUDE UNDER THE DEFINITION OF "COMPULSORY-SCHOOL-AGE  
 4 CHILD" CERTAIN STUDENTS WHO TURN EIGHTEEN BUT HAVE NOT YET  
 5 GRADUATED FROM HIGH SCHOOL; TO AUTHORIZE CERTAIN STUDENTS AGED  
 6 SEVENTEEN AND EIGHTEEN TO WITHDRAW FROM SCHOOL, WITH THEIR PARENTS  
 7 WRITTEN CONSENT, AFTER AN EXIT INTERVIEW IS HELD; TO REQUIRE  
 8 SCHOOLS TO SUBMIT A DAILY REPORT OF ABSENCES TO THE SCHOOL  
 9 ATTENDANCE OFFICER; TO ESTABLISH PENALTIES FOR PARENTS OF  
 10 COMPULSORY-SCHOOL-AGE CHILDREN WHO FAIL TO REQUIRE THEIR CHILDREN  
 11 TO ATTEND SCHOOL; AND FOR RELATED PURPOSES.

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

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

15 37-13-91. (1) This section shall be referred to as the  
 16 "Mississippi Compulsory School Attendance Law."

17 (2) The following terms as used in this section are defined  
 18 as follows:

19 (a) "Parent" means the father or mother to whom a child  
 20 has been born, or the father or mother by whom a child has been  
 21 legally adopted.

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

25 (c) "Custodian" means any person having the present  
 26 care or custody of a child, other than a parent or guardian of the  
 27 child.

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



32 (e) "School" means any public school in this state or  
33 any nonpublic school in this state which is in session each school  
34 year for at least one hundred eighty (180) school days, except  
35 that the "nonpublic" school term shall be the number of days that  
36 each school shall require for promotion from grade to grade.

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

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

40 (ii) Has not attained the age of eighteen (18)  
41 years on or before September 1 of the calendar year and has not  
42 graduated from high school; and

43 (iii) If the child's eighteenth birthday occurs  
44 during the school year, has not completed the school year during  
45 which the child attains the age of eighteen (18) years.

46 A child who is seventeen (17) or eighteen (18) years of age  
47 may withdraw from school before graduation if written consent is  
48 granted by the child's parent, guardian or custodian and an exit  
49 interview is conducted where the student and his parent, guardian  
50 or custodian provide written acknowledgement that withdrawal from  
51 school likely shall reduce the student's future earning potential  
52 and increase the student's likelihood of being unemployed in the  
53 future. During the exit interview, a student who is withdrawing  
54 from school must be given information that has been prepared and  
55 supplied by the Mississippi Department of Employment Security,  
56 Office of the Governor, regarding available training and  
57 employment opportunity programs.

58 The term "compulsory-school-age" child shall include any  
59 child who has attained or will attain the age of five (5) years on  
60 or before September 1 and has enrolled in a full-day public school  
61 kindergarten program. Provided, however, that the parent or  
62 guardian of any child enrolled in a full-day public school  
63 kindergarten program shall be allowed to disenroll the child from  
64 the program on a one-time basis, and such child shall not be



65 deemed a compulsory-school-age child until the child attains the  
66 age of six (6) years.

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

69 (h) "Appropriate school official" means the  
70 superintendent of the school district, or his designee, or, in the  
71 case of a nonpublic school, the principal or the headmaster.

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

78 (3) A parent, guardian or custodian of a  
79 compulsory-school-age child in this state shall cause the child to  
80 enroll in and attend a public school or legitimate nonpublic  
81 school for the period of time that the child is of compulsory  
82 school age, except under the following circumstances:

83 (a) When a compulsory-school-age child is physically,  
84 mentally or emotionally incapable of attending school as  
85 determined by the appropriate school official based upon  
86 sufficient medical documentation.

87 (b) When a compulsory-school-age child is enrolled in  
88 and pursuing a course of special education, remedial education or  
89 education for handicapped or physically or mentally disadvantaged  
90 children.

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

93 The parent, guardian or custodian of a compulsory-school-age  
94 child described in this subsection, or the parent, guardian or  
95 custodian of a compulsory-school-age child attending any nonpublic  
96 school, or the appropriate school official for any or all children  
97 attending a nonpublic school shall complete a "certificate of



98 enrollment" in order to facilitate the administration of this  
99 section.

100 The form of the certificate of enrollment shall be prepared  
101 by the Office of Compulsory School Attendance Enforcement of the  
102 State Department of Education and shall be designed to obtain the  
103 following information only:

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

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

108 (iii) A simple description of the type of  
109 education the compulsory-school-age child is receiving and, if the  
110 child is enrolled in a nonpublic school, the name and address of  
111 the school; and

112 (iv) The signature of the parent, guardian or  
113 custodian of the compulsory-school-age child or, for any or all  
114 compulsory-school-age child or children attending a nonpublic  
115 school, the signature of the appropriate school official and the  
116 date signed.

117 The certificate of enrollment shall be returned to the school  
118 attendance officer where the child resides on or before September  
119 15 of each year. Any parent, guardian or custodian found by the  
120 school attendance officer to be in noncompliance with this section  
121 shall comply, after written notice of the noncompliance by the  
122 school attendance officer, with this subsection within ten (10)  
123 days after the notice or be in violation of this section.

124 However, in the event the child has been enrolled in a public  
125 school within fifteen (15) calendar days after the first day of  
126 the school year as required in subsection (6), the parent or  
127 custodian may, at a later date, enroll the child in a legitimate  
128 nonpublic school or legitimate home instruction program and send  
129 the certificate of enrollment to the school attendance officer and  
130 be in compliance with this subsection.



131 For the purposes of this subsection, a legitimate nonpublic  
132 school or legitimate home instruction program shall be those not  
133 operated or instituted for the purpose of avoiding or  
134 circumventing the compulsory attendance law.

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

141 Each of the following shall constitute a valid excuse for  
142 temporary nonattendance of a compulsory-school-age child enrolled  
143 in a public school, provided satisfactory evidence of the excuse  
144 is provided to the superintendent of the school district, or his  
145 designee:

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

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

155 (c) An absence is excused when isolation of a  
156 compulsory-school-age child is ordered by the county health  
157 officer, by the State Board of Health or appropriate school  
158 official.

159 (d) An absence is excused when it results from the  
160 death or serious illness of a member of the immediate family of a  
161 compulsory-school-age child. The immediate family members of a  
162 compulsory-school-age child shall include children, spouse,



163 grandparents, parents, brothers and sisters, including  
164 stepbrothers and stepsisters.

165 (e) An absence is excused when it results from a  
166 medical or dental appointment of a compulsory-school-age child.

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

171 (g) An absence may be excused if the religion to which  
172 the compulsory-school-age child or the child's parents adheres,  
173 requires or suggests the observance of a religious event. The  
174 approval of the absence is within the discretion of the  
175 superintendent of the school district, or his designee, but  
176 approval should be granted unless the religion's observance is of  
177 such duration as to interfere with the education of the child.

178 (h) An absence may be excused when it is demonstrated  
179 to the satisfaction of the superintendent of the school district,  
180 or his designee, that the purpose of the absence is to take  
181 advantage of a valid educational opportunity such as travel,  
182 including vacations or other family travel. Approval of the  
183 absence must be gained from the superintendent of the school  
184 district, or his designee, before the absence, but the approval  
185 shall not be unreasonably withheld.

186 (i) An absence may be excused when it is demonstrated  
187 to the satisfaction of the superintendent of the school district,  
188 or his designee, that conditions are sufficient to warrant the  
189 compulsory-school-age child's nonattendance. However, no absences  
190 shall be excused by the school district superintendent, or his  
191 designee, when any student suspensions or expulsions circumvent  
192 the intent and spirit of the compulsory attendance law.

193 Before the conclusion of each day that school is in session,  
194 the principal of each school shall cause notice to be given to the  
195 school attendance officer of every absence on that day of children



196 enrolled in that school, including both excused and unexcused  
197 absences.

198 (5) (a) Every parent, guardian or custodian of a  
199 compulsory-school-age child shall cause the child to attend  
200 school, as required under this section, and for every neglect of  
201 this duty, the person shall be fined an amount not exceeding Fifty  
202 Dollars (\$50.00) for each day or part of a day that the child  
203 fails to attend school. If the total of these days is more than  
204 thirty (30) school days during any school year, then upon  
205 conviction, the person shall be imprisoned not exceeding six (6)  
206 months or fined not more than Five Hundred Dollars (\$500.00), or  
207 both. Any parent, guardian or custodian \* \* \* who refuses or  
208 willfully fails to perform any of the other duties imposed upon  
209 him or her under this section or who intentionally falsifies any  
210 information required to be contained in a certificate of  
211 enrollment, shall be guilty of contributing to the neglect of a  
212 child and, upon conviction, shall be punished in accordance with  
213 Section 97-5-39.

214 (b) Upon prosecution of a parent, guardian or custodian  
215 of a compulsory-school-age child for violation of this section,  
216 the presentation of evidence by the prosecutor that shows that the  
217 child has not been enrolled in school within eighteen (18)  
218 calendar days after the first day of the school year of the public  
219 school which the child is eligible to attend, or that the child  
220 has accumulated twelve (12) unlawful absences during the school  
221 year at the public school in which the child has been enrolled,  
222 shall establish a prima facie case that the child's parent,  
223 guardian or custodian is responsible for the absences and has  
224 refused or willfully failed to perform the duties imposed upon him  
225 or her under this section. However, no proceedings under this  
226 section shall be brought against a parent, guardian or custodian  
227 of a compulsory-school-age child unless the school attendance  
228 officer has contacted promptly the home of the child and has



229 provided written notice to the parent, guardian or custodian of  
230 the requirement for the child's enrollment or attendance.

231 (c) A parent, guardian or custodian who has given  
232 written consent for a compulsory-school-age child to withdraw from  
233 school, as authorized under subsection (2)(f) of this section,  
234 shall not be subject to any penalty for a violation of paragraph  
235 (a) of this subsection.

236 (6) If a compulsory-school-age child has not been enrolled  
237 in a school within fifteen (15) calendar days after the first day  
238 of the school year of the school which the child is eligible to  
239 attend or the child has accumulated five (5) unlawful absences  
240 during the school year of the public school in which the child is  
241 enrolled, the school district superintendent or his designee shall  
242 report, within two (2) school days or within five (5) calendar  
243 days, whichever is less, the absences to the school attendance  
244 officer. The State Department of Education shall prescribe a  
245 uniform method for schools to utilize in reporting the unlawful  
246 absences to the school attendance officer. The superintendent, or  
247 his designee, also shall report any student suspensions or student  
248 expulsions to the school attendance officer when they occur.

249 (7) Upon receipt of the daily notice of absences from a  
250 school required under subsection (4) of this section, a school  
251 attendance officer shall attempt to make immediate contact with  
252 the parent, guardian or custodian of each compulsory-school-age  
253 child who was absent from school that day. If the school  
254 attendance officer successfully contacts the parent, guardian or  
255 custodian, he shall endeavor to discuss the importance of regular  
256 school attendance and warn the parent, guardian or custodian of  
257 the long-term consequences of absences to the student and of  
258 potential penalties that may be imposed upon the parent, guardian  
259 or custodian for failure to comply with this section.

260 When a school attendance officer has made all attempts to  
261 secure enrollment and/or attendance of a compulsory-school-age





262 child and is unable to effect the enrollment and/or attendance,  
263 the attendance officer shall file a petition with the youth court  
264 under Section 43-21-451 or shall file a petition in a court of  
265 competent jurisdiction as it pertains to parent or child.  
266 Sheriffs, deputy sheriffs and municipal law enforcement officers  
267 shall be fully authorized to investigate all cases of  
268 nonattendance and unlawful absences by compulsory-school-age  
269 children, and shall be authorized to file a petition with the  
270 youth court under Section 43-21-451 or file a petition or  
271 information in the court of competent jurisdiction as it pertains  
272 to parent or child for violation of this section. The youth court  
273 shall expedite a hearing to make an appropriate adjudication and a  
274 disposition to ensure compliance with the Compulsory School  
275 Attendance Law, and may order the child to enroll or re-enroll in  
276 school. The superintendent of the school district to which the  
277 child is ordered may assign, in his discretion, the child to the  
278 alternative school program of the school established pursuant to  
279 Section 37-13-92.

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

284 (9) Notwithstanding any provision or implication herein to  
285 the contrary, it is not the intention of this section to impair  
286 the primary right and the obligation of the parent or parents, or  
287 person or persons in loco parentis to a child, to choose the  
288 proper education and training for such child, and nothing in this  
289 section shall ever be construed to grant, by implication or  
290 otherwise, to the State of Mississippi, any of its officers,  
291 agencies or subdivisions any right or authority to control,  
292 manage, supervise or make any suggestion as to the control,  
293 management or supervision of any private or parochial school or  
294 institution for the education or training of children, of any kind



295 whatsoever that is not a public school according to the laws of  
296 this state; and this section shall never be construed so as to  
297 grant, by implication or otherwise, any right or authority to any  
298 state agency or other entity to control, manage, supervise,  
299 provide for or affect the operation, management, program,  
300 curriculum, admissions policy or discipline of any such school or  
301 home instruction program.

302         **SECTION 2.** This act shall take effect and be in force from  
303 and after July 1, 2010.

