

By: Representative Chism

To: Education

HOUSE BILL NO. 530

1 AN ACT TO AMEND SECTION 37-13-91, MISSISSIPPI CODE OF 1972,
2 TO CLARIFY IN THE DEFINITION OF THE TERM "COMPULSORY-SCHOOL-AGE
3 CHILD" THOSE STUDENTS WHO HAVE ATTAINED OR WILL ATTAIN THE AGE OF
4 SIX YEARS ON OR BEFORE SEPTEMBER 1 AND WHO ARE ENROLLED IN A
5 PUBLIC SCHOOL KINDERGARTEN; AND FOR RELATED PURPOSES.

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

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

9 37-13-91. (1) This section shall be referred to as the
10 "Mississippi Compulsory School Attendance Law."

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

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

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

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

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

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



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

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

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

34 2. Has attained or will attain the age of
35 five (5) years on or before September 1 and has enrolled in a
36 full-day public school kindergarten program. * * * However, * * *
37 the parent or guardian of any child enrolled in a full-day public
38 school kindergarten program shall be allowed, on no more than one
39 (1) occasion, to disenroll the child from the program * * *, and
40 the child shall not be deemed a compulsory-school-age child after
41 being disenrolled from the kindergarten program until the child
42 satisfies the age requirements of item 1 of this subparagraph; and

43 (ii) Has not attained the age of seventeen (17)
44 years on or before September 1 of the calendar year; and

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

47 (h) "Appropriate school official" means the
48 superintendent of the school district, or his designee, or, in the
49 case of a nonpublic school, the principal or the headmaster.

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

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



61 (a) When a compulsory-school-age child is physically,
62 mentally or emotionally incapable of attending school as
63 determined by the appropriate school official based upon
64 sufficient medical documentation.

65 (b) When a compulsory-school-age child is enrolled in
66 and pursuing a course of special education, remedial education or
67 education for handicapped or physically or mentally disadvantaged
68 children.

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

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

78 The form of the certificate of enrollment shall be prepared
79 by the Office of Compulsory School Attendance Enforcement of the
80 State Department of Education and shall be designed to obtain the
81 following information only:

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

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

86 (iii) A simple description of the type of
87 education the compulsory-school-age child is receiving and, if the
88 child is enrolled in a nonpublic school, the name and address of
89 the school; and

90 (iv) The signature of the parent, guardian or
91 custodian of the compulsory-school-age child or, for any or all
92 compulsory-school-age child or children attending a nonpublic



93 school, the signature of the appropriate school official and the
94 date signed.

95 The certificate of enrollment shall be returned to the school
96 attendance officer where the child resides on or before September
97 15 of each year. Any parent, guardian or custodian found by the
98 school attendance officer to be in noncompliance with this section
99 shall comply, after written notice of the noncompliance by the
100 school attendance officer, with this subsection within ten (10)
101 days after the notice or be in violation of this section.

102 However, in the event the child has been enrolled in a public
103 school within fifteen (15) calendar days after the first day of
104 the school year as required in subsection (6), the parent or
105 custodian may, at a later date, enroll the child in a legitimate
106 nonpublic school or legitimate home instruction program and send
107 the certificate of enrollment to the school attendance officer and
108 be in compliance with this subsection.

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

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

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

124 (a) An absence is excused when the absence results from
125 the compulsory-school-age child's attendance at an authorized



126 school activity with the prior approval of the superintendent of
127 the school district, or his designee. These activities may
128 include field trips, athletic contests, student conventions,
129 musical festivals and any similar activity.

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

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

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

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

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

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

156 (h) An absence may be excused when it is demonstrated
157 to the satisfaction of the superintendent of the school district,
158 or his designee, that the purpose of the absence is to take



159 advantage of a valid educational opportunity such as travel,
160 including vacations or other family travel. Approval of the
161 absence must be gained from the superintendent of the school
162 district, or his designee, before the absence, but the approval
163 shall not be unreasonably withheld.

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

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

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



192 of a compulsory-school-age child unless the school attendance
193 officer has contacted promptly the home of the child and has
194 provided written notice to the parent, guardian or custodian of
195 the requirement for the child's enrollment or attendance.

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

209 (7) When a school attendance officer has made all attempts
210 to secure enrollment and/or attendance of a compulsory-school-age
211 child and is unable to effect the enrollment and/or attendance,
212 the attendance officer shall file a petition with the youth court
213 under Section 43-21-451 or shall file a petition in a court of
214 competent jurisdiction as it pertains to parent or child.
215 Sheriffs, deputy sheriffs and municipal law enforcement officers
216 shall be fully authorized to investigate all cases of
217 nonattendance and unlawful absences by compulsory-school-age
218 children, and shall be authorized to file a petition with the
219 youth court under Section 43-21-451 or file a petition or
220 information in the court of competent jurisdiction as it pertains
221 to parent or child for violation of this section. The youth court
222 shall expedite a hearing to make an appropriate adjudication and a
223 disposition to ensure compliance with the Compulsory School
224 Attendance Law, and may order the child to enroll or re-enroll in



225 school. The superintendent of the school district to which the
226 child is ordered may assign, in his discretion, the child to the
227 alternative school program of the school established pursuant to
228 Section 37-13-92.

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

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

251 **SECTION 2.** This act shall take effect and be in force from
252 and after July 1, 2011.

