

By: Representative Lane

To: Education

HOUSE BILL NO. 457

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 REPORT OF ABSENCES TO THE SCHOOL ATTENDANCE  
 9 OFFICER AFTER A CHILD'S THIRD UNEXCUSED ABSENCE; AND FOR RELATED  
 10 PURPOSES.

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

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

14 37-13-91. (1) This section shall be referred to as the  
 15 "Mississippi Compulsory School Attendance Law."

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

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



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

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

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

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

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

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

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

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



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

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

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



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

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

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

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

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

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



92           The parent, guardian or custodian of a compulsory-school-age  
93 child described in this subsection, or the parent, guardian or  
94 custodian of a compulsory-school-age child attending any nonpublic  
95 school, or the appropriate school official for any or all children  
96 attending a nonpublic school shall complete a "certificate of  
97 enrollment" in order to facilitate the administration of this  
98 section.

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

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

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

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

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



116           The certificate of enrollment shall be returned to the school  
117 attendance officer where the child resides on or before September  
118 15 of each year. Any parent, guardian or custodian found by the  
119 school attendance officer to be in noncompliance with this section  
120 shall comply, after written notice of the noncompliance by the  
121 school attendance officer, with this subsection within ten (10)  
122 days after the notice or be in violation of this section.  
123 However, in the event the child has been enrolled in a public  
124 school within fifteen (15) calendar days after the first day of  
125 the school year as required in subsection (6), the parent or  
126 custodian may, at a later date, enroll the child in a legitimate  
127 nonpublic school or legitimate home instruction program and send  
128 the certificate of enrollment to the school attendance officer and  
129 be in compliance with this subsection.

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

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



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

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

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

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

158           (d) An absence is excused when it results from the  
159 death or serious illness of a member of the immediate family of a  
160 compulsory-school-age child. The immediate family members of a  
161 compulsory-school-age child shall include children, spouse,  
162 grandparents, parents, brothers and sisters, including  
163 stepbrothers and stepsisters.



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

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

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

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

185 (i) An absence may be excused when it is demonstrated  
186 to the satisfaction of the superintendent of the school district,  
187 or his designee, that conditions are sufficient to warrant the  
188 compulsory-school-age child's nonattendance. However, no absences





189 shall be excused by the school district superintendent, or his  
190 designee, when any student suspensions or expulsions circumvent  
191 the intent and spirit of the compulsory attendance law.

192 Before the conclusion of each day that school is in session,  
193 the principal of each school shall cause notice to be given to the  
194 school attendance officer of every absence on that day of children  
195 enrolled in that school who have accumulated three (3) unexcused  
196 absences.

197 (5) (a) Any parent, guardian or custodian \* \* \* who refuses  
198 or willfully fails to perform any of the duties imposed upon him  
199 or her under this section or who intentionally falsifies any  
200 information required to be contained in a certificate of  
201 enrollment, shall be guilty of contributing to the neglect of a  
202 child and, upon conviction, shall be punished in accordance with  
203 Section 97-5-39.

204 (b) Upon prosecution of a parent, guardian or custodian  
205 of a compulsory-school-age child for violation of this section,  
206 the presentation of evidence by the prosecutor that shows that the  
207 child has not been enrolled in school within eighteen (18)  
208 calendar days after the first day of the school year of the public  
209 school which the child is eligible to attend, or that the child  
210 has accumulated twelve (12) unlawful absences during the school  
211 year at the public school in which the child has been enrolled,  
212 shall establish a prima facie case that the child's parent,  
213 guardian or custodian is responsible for the absences and has



214 refused or willfully failed to perform the duties imposed upon him  
215 or her under this section. However, no proceedings under this  
216 section shall be brought against a parent, guardian or custodian  
217 of a compulsory-school-age child unless the school attendance  
218 officer has contacted promptly the home of the child and has  
219 provided written notice to the parent, guardian or custodian of  
220 the requirement for the child's enrollment or attendance.

221 (c) A parent, guardian or custodian who has given  
222 written consent for a compulsory-school-age child to withdraw from  
223 school, as authorized under subsection (2)(f) of this section, is  
224 not subject to any penalty for a violation of paragraph (a) of  
225 this subsection.

226 (6) If a compulsory-school-age child has not been enrolled  
227 in a school within fifteen (15) calendar days after the first day  
228 of the school year of the school which the child is eligible to  
229 attend or the child has accumulated five (5) unlawful absences  
230 during the school year of the public school in which the child is  
231 enrolled, the school district superintendent or his designee shall  
232 report, within two (2) school days or within five (5) calendar  
233 days, whichever is less, the absences to the school attendance  
234 officer. The State Department of Education shall prescribe a  
235 uniform method for schools to utilize in reporting the unlawful  
236 absences to the school attendance officer. The superintendent, or  
237 his designee, also shall report any student suspensions or student  
238 expulsions to the school attendance officer when they occur.



239           (7) Upon receipt of notice of a child's third unexcused  
240 absence from a school required under subsection (4) of this  
241 section, a school attendance officer shall attempt to make  
242 immediate contact with the parent, guardian or custodian of each  
243 compulsory-school-age child who was absent from school that day.  
244 If the school attendance officer successfully contacts the parent,  
245 guardian or custodian, he shall endeavor to discuss the importance  
246 of regular school attendance and warn the parent, guardian or  
247 custodian of the long-term consequences of absences to the  
248 student.

249           When a school attendance officer has made all attempts to  
250 secure enrollment and/or attendance of a compulsory-school-age  
251 child and is unable to effect the enrollment and/or attendance,  
252 the attendance officer shall file a petition with the youth court  
253 under Section 43-21-451 or shall file a petition in a court of  
254 competent jurisdiction as it pertains to parent or child.  
255 Sheriffs, deputy sheriffs and municipal law enforcement officers  
256 shall be fully authorized to investigate all cases of  
257 nonattendance and unlawful absences by compulsory-school-age  
258 children, and shall be authorized to file a petition with the  
259 youth court under Section 43-21-451 or file a petition or  
260 information in the court of competent jurisdiction as it pertains  
261 to parent or child for violation of this section. The youth court  
262 shall expedite a hearing to make an appropriate adjudication and a  
263 disposition to ensure compliance with the Compulsory School



264 Attendance Law, and may order the child to enroll or re-enroll in  
265 school. The superintendent of the school district to which the  
266 child is ordered may assign, in his discretion, the child to the  
267 alternative school program of the school established pursuant to  
268 Section 37-13-92.

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

273 (9) Notwithstanding any provision or implication herein to  
274 the contrary, it is not the intention of this section to impair  
275 the primary right and the obligation of the parent or parents, or  
276 person or persons in loco parentis to a child, to choose the  
277 proper education and training for such child, and nothing in this  
278 section shall ever be construed to grant, by implication or  
279 otherwise, to the State of Mississippi, any of its officers,  
280 agencies or subdivisions any right or authority to control,  
281 manage, supervise or make any suggestion as to the control,  
282 management or supervision of any private or parochial school or  
283 institution for the education or training of children, of any kind  
284 whatsoever that is not a public school according to the laws of  
285 this state; and this section shall never be construed so as to  
286 grant, by implication or otherwise, any right or authority to any  
287 state agency or other entity to control, manage, supervise,  
288 provide for or affect the operation, management, program,



289 curriculum, admissions policy or discipline of any such school or  
290 home instruction program.

291           **SECTION 2.** This act shall take effect and be in force from  
292 and after July 1, 2013.

