

By: Representatives Hines, Clark

To: Education

## HOUSE BILL NO. 731

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

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

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

40 The term "compulsory-school-age" child shall include any  
41 child who has attained or will attain the age of five (5) years on  
42 or before September 1 and has enrolled in a full-day public school  
43 kindergarten program. \* \* \* However, \* \* \* the parent or guardian



44 of any child enrolled in a full-day public school kindergarten  
45 program shall be allowed to disenroll the child from the program  
46 on a one-time basis, and such child shall not be deemed a  
47 compulsory-school-age child until the child attains the age of six  
48 (6) years.

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

51 (h) "Appropriate school official" means the  
52 superintendent of the school district, or his designee, or, in the  
53 case of a nonpublic school, the principal or the headmaster.

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

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

65 (a) When a compulsory-school-age child is physically,  
66 mentally or emotionally incapable of attending school as  
67 determined by the appropriate school official based upon  
68 sufficient medical documentation.



69           (b) When a compulsory-school-age child is enrolled in  
70 and pursuing a course of special education, remedial education or  
71 education for handicapped or physically or mentally disadvantaged  
72 children.

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

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

82           The form of the certificate of enrollment shall be prepared  
83 by the Office of Compulsory School Attendance Enforcement of the  
84 State Department of Education and shall be designed to obtain the  
85 following information only:

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

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

90                   (iii) A simple description of the type of  
91 education the compulsory-school-age child is receiving and, if the  
92 child is enrolled in a nonpublic school, the name and address of  
93 the school; and



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

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

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

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

(4) An "unlawful absence" is an absence during a school day by a compulsory-school-age child, which absence is not due to a



valid excuse for temporary nonattendance. Days missed from school due to disciplinary suspension shall not be considered an "excused" absence under this section. This subsection shall not apply to children enrolled in a nonpublic school.

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

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

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

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

(d) An absence is excused when it results from the death or serious illness of a member of the immediate family of a compulsory-school-age child. The immediate family members of a



compulsory-school-age child shall include children, spouse, grandparents, parents, brothers and sisters, including stepbrothers and stepsisters.

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

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

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

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



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

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

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





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

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

213 (7) When a school attendance officer has made all attempts  
214 to secure enrollment and/or attendance of a compulsory-school-age  
215 child and is unable to effect the enrollment and/or attendance,  
216 the attendance officer shall file a petition with the youth court  
217 under Section 43-21-451 or shall file a petition in a court of



competent jurisdiction as it pertains to parent or child.  
Sheriffs, deputy sheriffs and municipal law enforcement officers  
shall be fully authorized to investigate all cases of  
nonattendance and unlawful absences by compulsory-school-age  
children, and shall be authorized to file a petition with the  
youth court under Section 43-21-451 or file a petition or  
information in the court of competent jurisdiction as it pertains  
to parent or child for violation of this section. The youth court  
shall expedite a hearing to make an appropriate adjudication and a  
disposition to ensure compliance with the Compulsory School  
Attendance Law, and may order the child to enroll or re-enroll in  
school. The superintendent of the school district to which the  
child is ordered may assign, in his discretion, the child to the  
alternative school program of the school established pursuant to  
Section 37-13-92.

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

(9) Notwithstanding any provision or implication herein to  
the contrary, it is not the intention of this section to impair  
the primary right and the obligation of the parent or parents, or  
person or persons in loco parentis to a child, to choose the  
proper education and training for such child, and nothing in this  
section shall ever be construed to grant, by implication or



243 otherwise, to the State of Mississippi, any of its officers,  
244 agencies or subdivisions any right or authority to control,  
245 manage, supervise or make any suggestion as to the control,  
246 management or supervision of any private or parochial school or  
247 institution for the education or training of children, of any kind  
248 whatsoever that is not a public school according to the laws of  
249 this state; and this section shall never be construed so as to  
250 grant, by implication or otherwise, any right or authority to any  
251 state agency or other entity to control, manage, supervise,  
252 provide for or affect the operation, management, program,  
253 curriculum, admissions policy or discipline of any such school or  
254 home instruction program.

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

