

By: Representative Gardner

To: Education

HOUSE BILL NO. 1473

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 WHO ARE
 6 SEVENTEEN OR EIGHTEEN YEARS OF AGE TO WITHDRAW FROM SCHOOL, WITH
 7 THE WRITTEN CONSENT OF THEIR PARENTS, AFTER AN EXIT INTERVIEW IS
 8 HELD; TO REQUIRE SCHOOLS TO SUBMIT A DAILY REPORT OF ABSENCES TO
 9 THE SCHOOL ATTENDANCE OFFICER; TO ESTABLISH PENALTIES FOR PARENTS
 10 OF COMPULSORY-SCHOOL-AGE CHILDREN WHO FAIL TO REQUIRE THEIR
 11 CHILDREN 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
41 (18) years on or before September 1 of the calendar year * * * and
42 has not 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. * * * However, * * * the parent or guardian
62 of any child enrolled in a full-day public school kindergarten
63 program shall be allowed to disenroll the child from the program
64 on a one-time basis, and such child shall not be deemed a
65 compulsory-school-age child until the child attains the age of six
66 (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) Except as otherwise provided under paragraph (c) of
199 this subsection, every parent, guardian or custodian of a
200 compulsory-school-age child shall cause the child to attend
201 school, as required under this section, and for every neglect of
202 this duty, the person must be fined an amount not exceeding Fifty
203 Dollars (\$50.00) for each day or part of a day that the child
204 fails to attend school. If the total of these days is more than
205 thirty (30) school days during any school year, then upon
206 conviction, the person must be imprisoned not exceeding six (6)
207 months or fined not more than Five Hundred Dollars (\$500.00), or
208 both. Any parent, guardian or custodian * * * who refuses or
209 willfully fails to perform any of the other duties imposed upon
210 him or her under this section or who intentionally falsifies any
211 information required to be contained in a certificate of
212 enrollment, shall be guilty of contributing to the neglect of a
213 child and, upon conviction, shall be punished in accordance with
214 Section 97-5-39.



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

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

237 (6) If a compulsory-school-age child has not been enrolled
238 in a school within fifteen (15) calendar days after the first day
239 of the school year of the school which the child is eligible to



240 attend or the child has accumulated five (5) unlawful absences
241 during the school year of the public school in which the child is
242 enrolled, the school district superintendent or his designee shall
243 report, within two (2) school days or within five (5) calendar
244 days, whichever is less, the absences to the school attendance
245 officer. The State Department of Education shall prescribe a
246 uniform method for schools to utilize in reporting the unlawful
247 absences to the school attendance officer. The superintendent, or
248 his designee, also shall report any student suspensions or student
249 expulsions to the school attendance officer when they occur.

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

261 When a school attendance officer has made all attempts to
262 secure enrollment and/or attendance of a compulsory-school-age
263 child and is unable to effect the enrollment and/or attendance,
264 the attendance officer shall file a petition with the youth court



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

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

285 (9) Notwithstanding any provision or implication herein to
286 the contrary, it is not the intention of this section to impair
287 the primary right and the obligation of the parent or parents, or
288 person or persons in loco parentis to a child, to choose the
289 proper education and training for such child, and nothing in this



290 section shall ever be construed to grant, by implication or
291 otherwise, to the State of Mississippi, any of its officers,
292 agencies or subdivisions any right or authority to control,
293 manage, supervise or make any suggestion as to the control,
294 management or supervision of any private or parochial school or
295 institution for the education or training of children, of any kind
296 whatsoever that is not a public school according to the laws of
297 this state; and this section shall never be construed so as to
298 grant, by implication or otherwise, any right or authority to any
299 state agency or other entity to control, manage, supervise,
300 provide for or affect the operation, management, program,
301 curriculum, admissions policy or discipline of any such school or
302 home instruction program.

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

