

By: Senator(s) Blount

To: Education

SENATE BILL NO. 2088

1 AN ACT TO AMEND SECTION 37-13-91, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT THE PROVISIONS OF THE MISSISSIPPI COMPULSORY
3 SCHOOL ATTENDANCE LAW ARE FULLY APPLICABLE TO KINDERGARTEN-AGE
4 CHILDREN; TO REQUIRE SUCH KINDERGARTEN-AGE CHILDREN TO ATTEND
5 LICENSED PUBLIC, PAROCHIAL OR NONPUBLIC SCHOOL KINDERGARTEN
6 PROGRAMS; AND FOR RELATED PURPOSES.

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

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

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

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

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

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



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

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

27 (e) "School" means any public school in this state or
28 any nonpublic school in this state which is in session each school
29 year for at least one hundred eighty (180) school days, except
30 that the "nonpublic" school term shall be the number of days that
31 each school shall require for promotion from grade to grade.
32 Relative to kindergarten-age children, school shall mean any
33 licensed public, parochial or nonpublic school kindergarten
34 program which promotes services that address the cognitive, social
35 and emotional needs of five-year-old children.

36 (f) "Compulsory-school-age child" means a child who has
37 attained or will attain the age of * * * five (5) years on or
38 before September 1 of the calendar year and who has not attained
39 the age of seventeen (17) years on or before September 1 of the
40 calendar year * * *.

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



43 (h) "Appropriate school official" means the
44 superintendent of the school district, or his designee, or, in the
45 case of a nonpublic school, the principal or the headmaster.

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

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

57 (a) When a compulsory-school-age child is physically,
58 mentally or emotionally incapable of attending school as
59 determined by the appropriate school official based upon
60 sufficient medical documentation.

61 (b) When a compulsory-school-age child is enrolled in
62 and pursuing a course of special education, remedial education or
63 education for handicapped or physically or mentally disadvantaged
64 children.

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



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

74 The form of the certificate of enrollment shall be prepared
75 by the Office of Compulsory School Attendance Enforcement of the
76 State Department of Education and shall be designed to obtain the
77 following information only:

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

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

82 (iii) A simple description of the type of
83 education the compulsory-school-age child is receiving and, if the
84 child is enrolled in a nonpublic school, the name and address of
85 the school; and

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



91 The certificate of enrollment shall be returned to the school
92 attendance officer where the child resides on or before September
93 15 of each year. Any parent, guardian or custodian found by the
94 school attendance officer to be in noncompliance with this section
95 shall comply, after written notice of the noncompliance by the
96 school attendance officer, with this subsection within ten (10)
97 days after the notice or be in violation of this section.
98 However, in the event the child has been enrolled in a public
99 school within fifteen (15) calendar days after the first day of
100 the school year as required in subsection (6), the parent or
101 custodian may, at a later date, enroll the child in a legitimate
102 nonpublic school or legitimate home instruction program and send
103 the certificate of enrollment to the school attendance officer and
104 be in compliance with this subsection.

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

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



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

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

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

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

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



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

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

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

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

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



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

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

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



189 officer has contacted promptly the home of the child and has
190 provided written notice to the parent, guardian or custodian of
191 the requirement for the child's enrollment or attendance.

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

205 (7) When a school attendance officer has made all attempts
206 to secure enrollment and/or attendance of a compulsory-school-age
207 child and is unable to effect the enrollment and/or attendance,
208 the attendance officer shall file a petition with the youth court
209 under Section 43-21-451 or shall file a petition in a court of
210 competent jurisdiction as it pertains to parent or child.
211 Sheriffs, deputy sheriffs and municipal law enforcement officers
212 shall be fully authorized to investigate all cases of
213 nonattendance and unlawful absences by compulsory-school-age



214 children, and shall be authorized to file a petition with the
215 youth court under Section 43-21-451 or file a petition or
216 information in the court of competent jurisdiction as it pertains
217 to parent or child for violation of this section. The youth court
218 shall expedite a hearing to make an appropriate adjudication and a
219 disposition to ensure compliance with the Compulsory School
220 Attendance Law, and may order the child to enroll or re-enroll in
221 school. The superintendent of the school district to which the
222 child is ordered may assign, in his discretion, the child to the
223 alternative school program of the school established pursuant to
224 Section 37-13-92.

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

229 (9) Notwithstanding any provision or implication herein to
230 the contrary, it is not the intention of this section to impair
231 the primary right and the obligation of the parent or parents, or
232 person or persons in loco parentis to a child, to choose the
233 proper education and training for such child, and nothing in this
234 section shall ever be construed to grant, by implication or
235 otherwise, to the State of Mississippi, any of its officers,
236 agencies or subdivisions any right or authority to control,
237 manage, supervise or make any suggestion as to the control,
238 management or supervision of any private or parochial school or



239 institution for the education or training of children, of any kind
240 whatsoever that is not a public school according to the laws of
241 this state; and this section shall never be construed so as to
242 grant, by implication or otherwise, any right or authority to any
243 state agency or other entity to control, manage, supervise,
244 provide for or affect the operation, management, program,
245 curriculum, admissions policy or discipline of any such school or
246 home instruction program.

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

