

By: Senator(s) Hopson

To: Education

SENATE BILL NO. 2143

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.

