

By: Senator(s) Tollison

To: Education

SENATE BILL NO. 2200

1 AN ACT TO AMEND SECTION 37-13-91, MISSISSIPPI CODE OF 1972,  
 2 TO PROVIDE THAT CHILDREN AGE 5 ON OR BEFORE SEPTEMBER 1 OF THE  
 3 CALENDAR YEAR ARE SUBJECT TO THE PROVISIONS TO THE MISSISSIPPI  
 4 COMPULSORY SCHOOL ATTENDANCE LAW AND TO CLARIFY THAT STUDENTS  
 5 COMPLETING THEIR COURSE OF STUDY ARE NO LONGER SUBJECT TO SAID  
 6 COMPULSORY ATTENDANCE LAW; 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 (f) "Compulsory-school-age child" means a child who has  
33 attained or will attain the age of \* \* \* five (5) years on or  
34 before September 1 of the calendar year and who has not attained  
35 the age of seventeen (17) years on or before September 1 \* \* \*.  
36 Once a compulsory-school-age child completes their course of study  
37 in a public, private, parochial, or homeschool program, the  
38 student no longer is subject to the compulsory school attendance  
39 law.

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

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



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

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

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

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

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

66 The parent, guardian or custodian of a compulsory-school-age  
67 child described in this subsection, or the parent, guardian or  
68 custodian of a compulsory-school-age child attending any nonpublic  
69 school, or the appropriate school official for any or all children



70 attending a nonpublic school shall complete a "certificate of  
71 enrollment" in order to facilitate the administration of this  
72 section.

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

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

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

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

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

90 The certificate of enrollment shall be returned to the school  
91 attendance officer where the child resides on or before September  
92 15 of each year. Any parent, guardian or custodian found by the  
93 school attendance officer to be in noncompliance with this section  
94 shall comply, after written notice of the noncompliance by the



95 school attendance officer, with this subsection within ten (10)  
96 days after the notice or be in violation of this section.  
97 However, in the event the child has been enrolled in a public  
98 school within fifteen (15) calendar days after the first day of  
99 the school year as required in subsection (6), the parent or  
100 custodian may, at a later date, enroll the child in a legitimate  
101 nonpublic school or legitimate home instruction program and send  
102 the certificate of enrollment to the school attendance officer and  
103 be in compliance with this subsection.

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

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

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



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

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

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

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

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

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



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

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

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

166 (5) Any parent, guardian or custodian of a  
167 compulsory-school-age child subject to this section who refuses or  
168 willfully fails to perform any of the duties imposed upon him or



169 her under this section or who intentionally falsifies any  
170 information required to be contained in a certificate of  
171 enrollment, shall be guilty of contributing to the neglect of a  
172 child and, upon conviction, shall be punished in accordance with  
173 Section 97-5-39.

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

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





194 attend or the child has accumulated five (5) unlawful absences  
195 during the school year of the public school in which the child is  
196 enrolled, the school district superintendent or his designee shall  
197 report, within two (2) school days or within five (5) calendar  
198 days, whichever is less, the absences to the school attendance  
199 officer. The State Department of Education shall prescribe a  
200 uniform method for schools to utilize in reporting the unlawful  
201 absences to the school attendance officer. The superintendent, or  
202 his designee, also shall report any student suspensions or student  
203 expulsions to the school attendance officer when they occur.

204 (7) When a school attendance officer has made all attempts  
205 to secure enrollment and/or attendance of a compulsory-school-age  
206 child and is unable to effect the enrollment and/or attendance,  
207 the attendance officer shall file a petition with the youth court  
208 under Section 43-21-451 or shall file a petition in a court of  
209 competent jurisdiction as it pertains to parent or child.  
210 Sheriffs, deputy sheriffs and municipal law enforcement officers  
211 shall be fully authorized to investigate all cases of  
212 nonattendance and unlawful absences by compulsory-school-age  
213 children, and shall be authorized to file a petition with the  
214 youth court under Section 43-21-451 or file a petition or  
215 information in the court of competent jurisdiction as it pertains  
216 to parent or child for violation of this section. The youth court  
217 shall expedite a hearing to make an appropriate adjudication and a  
218 disposition to ensure compliance with the Compulsory School



219 Attendance Law, and may order the child to enroll or re-enroll in  
220 school. The superintendent of the school district to which the  
221 child is ordered may assign, in his discretion, the child to the  
222 alternative school program of the school established pursuant to  
223 Section 37-13-92.

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

228 (9) Notwithstanding any provision or implication herein to  
229 the contrary, it is not the intention of this section to impair  
230 the primary right and the obligation of the parent or parents, or  
231 person or persons in loco parentis to a child, to choose the  
232 proper education and training for such child, and nothing in this  
233 section shall ever be construed to grant, by implication or  
234 otherwise, to the State of Mississippi, any of its officers,  
235 agencies or subdivisions any right or authority to control,  
236 manage, supervise or make any suggestion as to the control,  
237 management or supervision of any private or parochial school or  
238 institution for the education or training of children, of any kind  
239 whatsoever that is not a public school according to the laws of  
240 this state; and this section shall never be construed so as to  
241 grant, by implication or otherwise, any right or authority to any  
242 state agency or other entity to control, manage, supervise,  
243 provide for or affect the operation, management, program,



244 curriculum, admissions policy or discipline of any such school or  
245 home instruction program.

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

