

By: Representative Hines

To: Education

HOUSE BILL NO. 282

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, including a
27 charter school, in this state or any nonpublic school in this
28 state which is in session each school year for at least one
29 hundred eighty (180) school days, except that the "nonpublic"
30 school term shall be the number of days that each school shall
31 require for promotion from grade to grade.

32 (f) "Compulsory-school-age child" means a child who:
33 (i) Has attained or will attain the age of six (6) years on or
34 before September 1 of the calendar year; (ii) * * * Has not
35 attained the age of * * * eighteen (18) years on or before
36 September 1 of the calendar year; and (iii) If the child's
37 eighteenth birthday occurs during the school year, has not
38 completed the school year during which the child attains the age
39 of eighteen (18) years. The term "compulsory-school-age" child
40 shall include any child who has attained or will attain the age of
41 five (5) years on or before September 1 and has enrolled in a
42 full-day public school kindergarten program.



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

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

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

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

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

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



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

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

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

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

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

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

88 (iv) The signature of the parent, guardian or
89 custodian of the compulsory-school-age child or, for any or all
90 compulsory-school-age child or children attending a charter school



91 or nonpublic school, the signature of the appropriate school
92 official and the date signed.

93 The certificate of enrollment shall be returned to the school
94 attendance officer where the child resides on or before September
95 15 of each year. Any parent, guardian or custodian found by the
96 school attendance officer to be in noncompliance with this section
97 shall comply, after written notice of the noncompliance by the
98 school attendance officer, with this subsection within ten (10)
99 days after the notice or be in violation of this section.

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

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

111 (4) An "unlawful absence" is an absence for an entire school
112 day or during part of a school day by a compulsory-school-age
113 child, which absence is not due to a valid excuse for temporary
114 nonattendance. For purposes of reporting absenteeism under
115 subsection (6) of this section, if a compulsory-school-age child



116 has an absence that is more than thirty-seven percent (37%) of the
117 instructional day, as fixed by the school board for the school at
118 which the compulsory-school-age child is enrolled, the child must
119 be considered absent the entire school day. Days missed from
120 school due to disciplinary suspension shall not be considered an
121 "excused" absence under this section. This subsection shall not
122 apply to children enrolled in a nonpublic school.

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

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

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

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



141 (d) An absence is excused when it results from the
142 death or serious illness of a member of the immediate family of a
143 compulsory-school-age child. The immediate family members of a
144 compulsory-school-age child shall include children, spouse,
145 grandparents, parents, brothers and sisters, including
146 stepbrothers and stepsisters.

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

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

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

160 (h) 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 the purpose of the absence is to take
163 advantage of a valid educational opportunity such as travel,
164 including vacations or other family travel. Approval of the
165 absence must be gained from the superintendent of the school



166 district, or his designee, before the absence, but the approval
167 shall not be unreasonably withheld.

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

175 (j) An absence is excused when it results from the
176 attendance of a compulsory-school-age child participating in
177 official organized events sponsored by the 4-H or Future Farmers
178 of America (FFA). The excuse for the 4-H or FFA event must be
179 provided in writing to the appropriate school superintendent by
180 the Extension Agent or High School Agricultural Instructor/FFA
181 Advisor.

182 (k) An absence is excused when it results from the
183 compulsory-school-age child officially being employed to serve as
184 a page at the State Capitol for the Mississippi House of
185 Representatives or Senate.

186 (5) Any parent, guardian or custodian of a
187 compulsory-school-age child subject to this section who refuses or
188 willfully fails to perform any of the duties imposed upon him or
189 her under this section or who intentionally falsifies any
190 information required to be contained in a certificate of



191 enrollment, shall be guilty of contributing to the neglect of a
192 child and, upon conviction, shall be punished in accordance with
193 Section 97-5-39.

194 Upon prosecution of a parent, guardian or custodian of a
195 compulsory-school-age child for violation of this section, the
196 presentation of evidence by the prosecutor that shows that the
197 child has not been enrolled in school within eighteen (18)
198 calendar days after the first day of the school year of the public
199 school which the child is eligible to attend, or that the child
200 has accumulated twelve (12) unlawful absences during the school
201 year at the public school in which the child has been enrolled,
202 shall establish a prima facie case that the child's parent,
203 guardian or custodian is responsible for the absences and has
204 refused or willfully failed to perform the duties imposed upon him
205 or her under this section. However, no proceedings under this
206 section shall be brought against a parent, guardian or custodian
207 of a compulsory-school-age child unless the school attendance
208 officer has contacted promptly the home of the child and has
209 provided written notice to the parent, guardian or custodian of
210 the requirement for the child's enrollment or attendance.

211 (6) If a compulsory-school-age child has not been enrolled
212 in a school within fifteen (15) calendar days after the first day
213 of the school year of the school which the child is eligible to
214 attend or the child has accumulated five (5) unlawful absences
215 during the school year of the public school in which the child is



216 enrolled, the school district superintendent or his designee shall
217 report, within two (2) school days or within five (5) calendar
218 days, whichever is less, the absences to the school attendance
219 officer. The State Department of Education shall prescribe a
220 uniform method for schools to utilize in reporting the unlawful
221 absences to the school attendance officer. The superintendent or
222 his designee, also shall report any student suspensions or student
223 expulsions to the school attendance officer when they occur.

224 (7) When a school attendance officer has made all attempts
225 to secure enrollment and/or attendance of a compulsory-school-age
226 child and is unable to effect the enrollment and/or attendance,
227 the attendance officer shall file a petition with the youth court
228 under Section 43-21-451 or shall file a petition in a court of
229 competent jurisdiction as it pertains to parent or child.
230 Sheriffs, deputy sheriffs and municipal law enforcement officers
231 shall be fully authorized to investigate all cases of
232 nonattendance and unlawful absences by compulsory-school-age
233 children, and shall be authorized to file a petition with the
234 youth court under Section 43-21-451 or file a petition or
235 information in the court of competent jurisdiction as it pertains
236 to parent or child for violation of this section. The youth court
237 shall expedite a hearing to make an appropriate adjudication and a
238 disposition to ensure compliance with the Compulsory School
239 Attendance Law, and may order the child to enroll or re-enroll in
240 school. The superintendent of the school district to which the



241 child is ordered may assign, in his discretion, the child to the
242 alternative school program of the school established pursuant to
243 Section 37-13-92.

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

248 (9) Notwithstanding any provision or implication herein to
249 the contrary, it is not the intention of this section to impair
250 the primary right and the obligation of the parent or parents, or
251 person or persons in loco parentis to a child, to choose the
252 proper education and training for such child, and nothing in this
253 section shall ever be construed to grant, by implication or
254 otherwise, to the State of Mississippi, any of its officers,
255 agencies or subdivisions any right or authority to control,
256 manage, supervise or make any suggestion as to the control,
257 management or supervision of any private or parochial school or
258 institution for the education or training of children, of any kind
259 whatsoever that is not a public school according to the laws of
260 this state; and this section shall never be construed so as to
261 grant, by implication or otherwise, any right or authority to any
262 state agency or other entity to control, manage, supervise,
263 provide for or affect the operation, management, program,
264 curriculum, admissions policy or discipline of any such school or
265 home instruction program.



266 **SECTION 2.** This act shall take effect and be in force from
267 and after July 1, 2014.

