

By: Representative Williams-Barnes

To: Education

HOUSE BILL NO. 723

1 AN ACT TO AMEND SECTION 37-13-91, MISSISSIPPI CODE OF 1972,
2 TO REVISE THE DEFINITION OF THE TERM "COMPULSORY-SCHOOL-AGE CHILD"
3 TO INCLUDE CHILDREN WHO ATTAIN THE AGE OF FIVE YEARS BEFORE
4 SEPTEMBER 1 UNDER THE COMPULSORY SCHOOL ATTENDANCE LAW; AND FOR
5 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 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 of the
36 calendar year * * *. A five-year-old child shall be enrolled in a
37 full-day public school kindergarten program strictly on the
38 voluntary discretion of the child's parent or guardian. However,
39 if the parent or guardian of a five-year-old child enrolls the
40 child in a public school kindergarten program, then that child and
41 the child's parent or guardian shall be subject to the provisions
42 of this section.



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 (d) When a compulsory-school-age child, who has
70 attained the age of five (5) years, is being educated in a
71 licensed child care facility, including day nurseries and day care
72 centers, that offers a structured school or school readiness
73 program.

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

81 The form of the certificate of enrollment shall be prepared
82 by the Office of Compulsory School Attendance Enforcement of the
83 State Department of Education and shall be designed to obtain the
84 following information only:

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

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

89 (iii) A simple description of the type of
90 education the compulsory-school-age child is receiving and, if the



91 child is enrolled in a nonpublic school, the name and address of
92 the school; and

93 (iv) The signature of the parent, guardian or
94 custodian of the compulsory-school-age child or, for any or all
95 compulsory-school-age child or children attending a charter school
96 or nonpublic school, the signature of the appropriate school
97 official and the date signed.

98 The certificate of enrollment shall be returned to the school
99 attendance officer where the child resides on or before September
100 15 of each year. Any parent, guardian or custodian found by the
101 school attendance officer to be in noncompliance with this section
102 shall comply, after written notice of the noncompliance by the
103 school attendance officer, with this subsection within ten (10)
104 days after the notice or be in violation of this section.

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

112 For the purposes of this subsection, a legitimate nonpublic
113 school or legitimate home instruction program shall be those not
114 operated or instituted for the purpose of avoiding or
115 circumventing the compulsory attendance law.



116 (4) An "unlawful absence" is an absence for an entire school
117 day or during part of a school day by a compulsory-school-age
118 child, which absence is not due to a valid excuse for temporary
119 nonattendance. For purposes of reporting absenteeism under
120 subsection (6) of this section, if a compulsory-school-age child
121 has an absence that is more than thirty-seven percent (37%) of the
122 instructional day, as fixed by the school board for the school at
123 which the compulsory-school-age child is enrolled, the child must
124 be considered absent the entire school day. Days missed from
125 school due to disciplinary suspension shall not be considered an
126 "excused" absence under this section. This subsection shall not
127 apply to children enrolled in a nonpublic school.

128 Each of the following shall constitute a valid excuse for
129 temporary nonattendance of a compulsory-school-age child enrolled
130 in a noncharter public school, provided satisfactory evidence of
131 the excuse is provided to the superintendent of the school
132 district, or his designee:

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



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

142 (c) An absence is excused when isolation of a
143 compulsory-school-age child is ordered by the county health
144 officer, by the State Board of Health or appropriate school
145 official.

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

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

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

158 (g) An absence may be excused if the religion to which
159 the compulsory-school-age child or the child's parents adheres,
160 requires or suggests the observance of a religious event. The
161 approval of the absence is within the discretion of the
162 superintendent of the school district, or his designee, but



163 approval should be granted unless the religion's observance is of
164 such duration as to interfere with the education of the child.

165 (h) An absence may be excused when it is demonstrated
166 to the satisfaction of the superintendent of the school district,
167 or his designee, that the purpose of the absence is to take
168 advantage of a valid educational opportunity such as travel,
169 including vacations or other family travel. Approval of the
170 absence must be gained from the superintendent of the school
171 district, or his designee, before the absence, but the approval
172 shall not be unreasonably withheld.

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

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



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

191 (5) Any parent, guardian or custodian of a
192 compulsory-school-age child subject to this section who refuses or
193 willfully fails to perform any of the duties imposed upon him or
194 her under this section or who intentionally falsifies any
195 information required to be contained in a certificate of
196 enrollment, shall be guilty of contributing to the neglect of a
197 child and, upon conviction, shall be punished in accordance with
198 Section 97-5-39.

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



212 of a compulsory-school-age child unless the school attendance
213 officer has contacted promptly the home of the child and has
214 provided written notice to the parent, guardian or custodian of
215 the requirement for the child's enrollment or attendance.

216 (6) If a compulsory-school-age child has not been enrolled
217 in a school within fifteen (15) calendar days after the first day
218 of the school year of the school which the child is eligible to
219 attend or the child has accumulated five (5) unlawful absences
220 during the school year of the public school in which the child is
221 enrolled, the school district superintendent or his designee shall
222 report, within two (2) school days or within five (5) calendar
223 days, whichever is less, the absences to the school attendance
224 officer. The State Department of Education shall prescribe a
225 uniform method for schools to utilize in reporting the unlawful
226 absences to the school attendance officer. The superintendent or
227 his designee, also shall report any student suspensions or student
228 expulsions to the school attendance officer when they occur.

229 (7) When a school attendance officer has made all attempts
230 to secure enrollment and/or attendance of a compulsory-school-age
231 child and is unable to effect the enrollment and/or attendance,
232 the attendance officer shall file a petition with the youth court
233 under Section 43-21-451 or shall file a petition in a court of
234 competent jurisdiction as it pertains to parent or child.
235 Sheriffs, deputy sheriffs and municipal law enforcement officers
236 shall be fully authorized to investigate all cases of



237 nonattendance and unlawful absences by compulsory-school-age
238 children, and shall be authorized to file a petition with the
239 youth court under Section 43-21-451 or file a petition or
240 information in the court of competent jurisdiction as it pertains
241 to parent or child for violation of this section. The youth court
242 shall expedite a hearing to make an appropriate adjudication and a
243 disposition to ensure compliance with the Compulsory School
244 Attendance Law, and may order the child to enroll or re-enroll in
245 school. The superintendent of the school district to which the
246 child is ordered may assign, in his discretion, the child to the
247 alternative school program of the school established pursuant to
248 Section 37-13-92.

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

253 (9) Notwithstanding any provision or implication herein to
254 the contrary, it is not the intention of this section to impair
255 the primary right and the obligation of the parent or parents, or
256 person or persons in loco parentis to a child, to choose the
257 proper education and training for such child, and nothing in this
258 section shall ever be construed to grant, by implication or
259 otherwise, to the State of Mississippi, any of its officers,
260 agencies or subdivisions any right or authority to control,
261 manage, supervise or make any suggestion as to the control,



262 management or supervision of any private or parochial school or
263 institution for the education or training of children, of any kind
264 whatsoever that is not a public school according to the laws of
265 this state; and this section shall never be construed so as to
266 grant, by implication or otherwise, any right or authority to any
267 state agency or other entity to control, manage, supervise,
268 provide for or affect the operation, management, program,
269 curriculum, admissions policy or discipline of any such school or
270 home instruction program.

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

