

By: Representative Moore

To: Education

HOUSE BILL NO. 826

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

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

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



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

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

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

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

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

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



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

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

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

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

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

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



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

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

110           (4) An "unlawful absence" is an absence for an entire school  
111 day or during part of a school day by a compulsory-school-age  
112 child, which absence is not due to a valid excuse for temporary  
113 nonattendance. For purposes of reporting absenteeism under  
114 subsection (6) of this section, if a compulsory-school-age child  
115 has an absence that is more than thirty-seven percent (37%) of the  
116 instructional day, as fixed by the school board for the school at



117 which the compulsory-school-age child is enrolled, the child must  
118 be considered absent the entire school day. Days missed from  
119 school due to disciplinary suspension shall not be considered an  
120 "excused" absence under this section. This subsection shall not  
121 apply to children enrolled in a nonpublic school.

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

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

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

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

140 (d) An absence is excused when it results from the  
141 death or serious illness of a member of the immediate family of a



142 compulsory-school-age child. The immediate family members of a  
143 compulsory-school-age child shall include children, spouse,  
144 grandparents, parents, brothers and sisters, including  
145 stepbrothers and stepsisters.

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

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

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

159 (h) 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 the purpose of the absence is to take  
162 advantage of a valid educational opportunity such as travel,  
163 including vacations or other family travel. Approval of the  
164 absence must be gained from the superintendent of the school  
165 district, or his designee, before the absence, but the approval  
166 shall not be unreasonably withheld.



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

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

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

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



191 child and, upon conviction, shall be punished in accordance with  
192 Section 97-5-39.

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

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



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

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



241 alternative school program of the school established pursuant to  
242 Section 37-13-92.

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

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



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

