

By: Representatives Williams-Barnes,  
Faulkner

To: Education

HOUSE BILL NO. 1134

1 AN ACT TO AMEND SECTION 37-13-91, MISSISSIPPI CODE OF 1972,  
2 TO PROVIDE THAT THE "MISSISSIPPI COMPULSORY SCHOOL ATTENDANCE LAW"  
3 MAY BE REFERRED TO AS THE "ROSEMARY HAYES WILLIAMS KINDERGARTEN  
4 ACT"; TO REVISE THE DEFINITION OF THE TERM "COMPULSORY-SCHOOL-AGE  
5 CHILD" TO INCLUDE CHILDREN WHO ATTAIN THE AGE OF FIVE YEARS BEFORE  
6 SEPTEMBER 1 UNDER THE COMPULSORY SCHOOL ATTENDANCE LAW; AND FOR  
7 RELATED PURPOSES.

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

9 **SECTION 1.** Section 37-13-91, Mississippi Code of 1972, is  
10 amended as follows:

11 37-13-91. (1) This section shall be \* \* \* known and may be  
12 cited as the "Mississippi Compulsory School Attendance Law \* \* \*,"  
13 and may be referred to as the RoseMary Hayes Williams Kindergarten  
14 Act.

15 (2) The following terms as used in this section are defined  
16 as follows:

17 (a) "Parent" means the father or mother to whom a child  
18 has been born, or the father or mother by whom a child has been  
19 legally adopted.



20 (b) "Guardian" means a guardian of the person of a  
21 child, other than a parent, who is legally appointed by a court of  
22 competent jurisdiction.

23 (c) "Custodian" means any person having the present  
24 care or custody of a child, other than a parent or guardian of the  
25 child.

26 (d) "School day" means not less than five (5) and not  
27 more than eight (8) hours of actual teaching in which both  
28 teachers and pupils are in regular attendance for scheduled  
29 schoolwork.

30 (e) "School" means any public school, including a  
31 charter school, in this state or any nonpublic school in this  
32 state which is in session each school year for at least one  
33 hundred eighty (180) school days, except that the "nonpublic"  
34 school term shall be the number of days that each school shall  
35 require for promotion from grade to grade.

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 \* \* \*. A five-year-old child shall be enrolled in a  
41 full-day public school kindergarten program strictly on the  
42 voluntary discretion of the child's parent or guardian. However,  
43 if the parent or guardian of a five-year-old child enrolls the  
44 child in a public school kindergarten program, then that child and



45 the child's parent or guardian shall be subject to the provisions  
46 of this section.

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

49 (h) "Appropriate school official" means the  
50 superintendent of the school district, or his designee, or, in the  
51 case of a nonpublic school, the principal or the headmaster.

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

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

63 (a) When a compulsory-school-age child is physically,  
64 mentally or emotionally incapable of attending school as  
65 determined by the appropriate school official based upon  
66 sufficient medical documentation.

67 (b) When a compulsory-school-age child is enrolled in  
68 and pursuing a course of special education, remedial education or



69 education for handicapped or physically or mentally disadvantaged  
70 children.

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

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

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

85 The form of the certificate of enrollment shall be prepared  
86 by the Office of Compulsory School Attendance Enforcement of the  
87 State Department of Education and shall be designed to obtain the  
88 following information only:

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

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



93 (iii) A simple description of the type of  
94 education the compulsory-school-age child is receiving and, if the  
95 child is enrolled in a nonpublic school, the name and address of  
96 the school; and

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

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

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

116 For the purposes of this subsection, a legitimate nonpublic  
117 school or legitimate home instruction program shall be those not



118 operated or instituted for the purpose of avoiding or  
119 circumventing the compulsory attendance law.

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

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

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



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

146           (c) An absence is excused when isolation of a  
147 compulsory-school-age child is ordered by the county health  
148 officer, by the State Board of Health or appropriate school  
149 official.

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

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

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

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



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

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

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

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





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

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

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



216 of a compulsory-school-age child unless the school attendance  
217 officer has contacted promptly the home of the child and has  
218 provided written notice to the parent, guardian or custodian of  
219 the requirement for the child's enrollment or attendance.

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

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



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

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

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



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

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

