

By: Senator(s) Simmons (12th)

To: Education

SENATE BILL NO. 2161

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 APPLICABLE TO STUDENTS THROUGH AGE 18;
 4 TO PROVIDE THAT EVERY DAY A COMPULSORY-SCHOOL-AGE CHILD
 5 ACCUMULATES AN UNLAWFUL ABSENCE CONSTITUTES A SEPARATE CRIMINAL
 6 VIOLATION RELATIVE TO THE PARENTS OR LEGAL GUARDIANS OF SUCH
 7 STUDENTS AND TO AMEND SECTIONS 97-5-39 AND 37-13-92, MISSISSIPPI
 8 CODE OF 1972, IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

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

12 37-13-91. (1) This section shall be referred to as the
 13 "Mississippi Compulsory School Attendance Law."

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

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

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



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

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

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

35 (f) "Compulsory-school-age child" means a child who has
36 attained or will attain the age of six (6) years on or before
37 September 1 of the calendar year and who has not attained the age
38 of * * * nineteen (19) years on or before September 1 of the
39 calendar year; and shall include any child who has attained or
40 will attain the age of five (5) years on or before September 1 and
41 has enrolled in a full-day public school kindergarten program.

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. For purposes of prosecution of a
205 parent, guardian or custodian of a compulsory-school-age child for
206 violation of this section, every day that a child accumulates an
207 unlawful absence shall constitute a separate violation of this
208 section. However, no proceedings under this section shall be
209 brought against a parent, guardian or custodian of a
210 compulsory-school-age child unless the school attendance officer
211 has contacted promptly the home of the child and has provided
212 written notice to the parent, guardian or custodian of the
213 requirement for the child's enrollment or attendance.

214 (6) If a compulsory-school-age child has not been enrolled
215 in a school within fifteen (15) calendar days after the first day
216 of the school year of the school which the child is eligible to
217 attend or the child has accumulated five (5) unlawful absences
218 during the school year of the public school in which the child is
219 enrolled, the school district superintendent or his designee shall
220 report, within two (2) school days or within five (5) calendar



221 days, whichever is less, the absences to the school attendance
222 officer. The State Department of Education shall prescribe a
223 uniform method for schools to utilize in reporting the unlawful
224 absences to the school attendance officer. The superintendent or
225 his designee, also shall report any student suspensions or student
226 expulsions to the school attendance officer when they occur.

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



245 alternative school program of the school established pursuant to
246 Section 37-13-92.

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

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



269 **SECTION 2.** Section 97-5-39, Mississippi Code of 1972, is
270 amended as follows:

271 97-5-39. (1) (a) Except as otherwise provided in this
272 section, any parent, guardian or other person who intentionally,
273 knowingly or recklessly commits any act or omits the performance
274 of any duty, which act or omission contributes to or tends to
275 contribute to the neglect or delinquency of any child or which act
276 or omission results in the abuse of any child, as defined in
277 Section 43-21-105(m) of the Youth Court Law, or who knowingly aids
278 any child in escaping or absenting himself from the guardianship
279 or custody of any person, agency or institution, or knowingly
280 harbors or conceals, or aids in harboring or concealing, any child
281 who has absented himself without permission from the guardianship
282 or custody of any person, agency or institution to which the child
283 shall have been committed by the youth court shall be guilty of a
284 misdemeanor, and upon conviction shall be punished by a fine not
285 to exceed One Thousand Dollars (\$1,000.00), or by imprisonment not
286 to exceed one (1) year in jail, or by both such fine and
287 imprisonment. Every day a compulsory-school-age child accumulates
288 an "unlawful absence" from school as verified by the school
289 attendance officer under the provisions of the Mississippi
290 Compulsory School Attendance Law, Section 37-13-91, Mississippi
291 Code of 1972, shall constitute a separate violation against the
292 parent or legal guardian of such child under the provisions of
293 this subsection (1).



294 (b) For the purpose of this section, a child is a
295 person who has not reached his eighteenth birthday. A child who
296 has not reached his eighteenth birthday and is on active duty for
297 a branch of the armed services, or who is married, is not
298 considered a child for the purposes of this statute.

299 (c) If a child commits one (1) of the proscribed acts
300 in subsection (2) (a), (b) or (c) of this section upon another
301 child, then original jurisdiction of all such offenses shall be in
302 youth court.

303 (d) If the child's deprivation of necessary clothing,
304 shelter, health care or supervision appropriate to the child's age
305 results in substantial harm to the child's physical, mental or
306 emotional health, the person may be sentenced to imprisonment in
307 custody of the Department of Corrections for not more than five
308 (5) years or to payment of a fine of not more than Five Thousand
309 Dollars (\$5,000.00), or both.

310 (e) A parent, legal guardian or other person who
311 knowingly permits the continuing physical or sexual abuse of a
312 child is guilty of neglect of a child and may be sentenced to
313 imprisonment in the custody of the Department of Corrections for
314 not more than ten (10) years or to payment of a fine of not more
315 than Ten Thousand Dollars (\$10,000.00), or both.

316 (2) Any person shall be guilty of felonious child abuse in
317 the following circumstances:



318 (a) Whether bodily harm results or not, if the person
319 shall intentionally, knowingly or recklessly:
320 (i) Burn any child;
321 (ii) Physically torture any child;
322 (iii) Strangle, choke, smother or in any way
323 interfere with any child's breathing;
324 (iv) Poison a child;
325 (v) Starve a child of nourishments needed to
326 sustain life or growth;
327 (vi) Use any type of deadly weapon upon any child;
328 (b) If some bodily harm to any child actually occurs,
329 and if the person shall intentionally, knowingly or recklessly:
330 (i) Throw, kick, bite, or cut any child;
331 (ii) Strike a child under the age of fourteen (14)
332 about the face or head with a closed fist;
333 (iii) Strike a child under the age of five (5) in
334 the face or head;
335 (iv) Kick, bite, cut or strike a child's genitals;
336 circumcision of a male child is not a violation under this
337 subparagraph (iv);
338 (c) If serious bodily harm to any child actually
339 occurs, and if the person shall intentionally, knowingly or
340 recklessly:
341 (i) Strike any child on the face or head;
342 (ii) Disfigure or scar any child;



343 (iii) Whip, strike or otherwise abuse any child;

344 (d) Any person, upon conviction under paragraph (a) or
345 (c) of this subsection, shall be sentenced by the court to
346 imprisonment in the custody of the Department of Corrections for a
347 term of not less than five (5) years and up to life, as determined
348 by the court. Any person, upon conviction under paragraph (b) of
349 this subsection shall be sentenced by the court to imprisonment in
350 the custody of the Department of Corrections for a term of not
351 less than two (2) years nor more than ten (10) years, as
352 determined by the court. For any second or subsequent conviction
353 under this subsection (2), the person shall be sentenced to
354 imprisonment for life.

355 (e) For the purposes of this subsection (2), "bodily
356 harm" means any bodily injury to a child and includes, but is not
357 limited to, bruising, bleeding, lacerations, soft tissue swelling,
358 and external or internal swelling of any body organ.

359 (f) For the purposes of this subsection (2), "serious
360 bodily harm" means any serious bodily injury to a child and
361 includes, but is not limited to, the fracture of a bone, permanent
362 disfigurement, permanent scarring, or any internal bleeding or
363 internal trauma to any organ, any brain damage, any injury to the
364 eye or ear of a child or other vital organ, and impairment of any
365 bodily function.

366 (g) Nothing contained in paragraph (c) of this
367 subsection shall preclude a parent or guardian from disciplining a



368 child of that parent or guardian, or shall preclude a person in
369 loco parentis to a child from disciplining that child, if done in
370 a reasonable manner, and reasonable corporal punishment or
371 reasonable discipline as to that parent or guardian's child or
372 child to whom a person stands in loco parentis shall be a defense
373 to any violation charged under paragraph (c) of this subsection.

374 (h) Reasonable discipline and reasonable corporal
375 punishment shall not be a defense to acts described in paragraphs
376 (a) and (b) of this subsection or if a child suffers serious
377 bodily harm as a result of any act prohibited under paragraph (c)
378 of this subsection.

379 (3) Nothing contained in this section shall prevent
380 proceedings against the parent, guardian or other person under any
381 statute of this state or any municipal ordinance defining any act
382 as a crime or misdemeanor. Nothing in the provisions of this
383 section shall preclude any person from having a right to trial by
384 jury when charged with having violated the provisions of this
385 section.

386 (4) (a) A parent, legal guardian or caretaker who endangers
387 a child's person or health by knowingly causing or permitting the
388 child to be present where any person is selling, manufacturing or
389 possessing immediate precursors or chemical substances with intent
390 to manufacture, sell or possess a controlled substance as
391 prohibited under Section 41-29-139 or 41-29-313, is guilty of
392 child endangerment and may be sentenced to imprisonment for not



393 more than ten (10) years or to payment of a fine of not more than
394 Ten Thousand Dollars (\$10,000.00), or both.

395 (b) If the endangerment results in substantial harm to
396 the child's physical, mental or emotional health, the person may
397 be sentenced to imprisonment for not more than twenty (20) years
398 or to payment of a fine of not more than Twenty Thousand Dollars
399 (\$20,000.00), or both.

400 (5) Nothing contained in this section shall prevent
401 proceedings against the parent, guardian or other person under any
402 statute of this state or any municipal ordinance defining any act
403 as a crime or misdemeanor. Nothing in the provisions of this
404 section shall preclude any person from having a right to trial by
405 jury when charged with having violated the provisions of this
406 section.

407 (6) After consultation with the Department of Human
408 Services, a regional mental health center or an appropriate
409 professional person, a judge may suspend imposition or execution
410 of a sentence provided in subsections (1) and (2) of this section
411 and in lieu thereof require treatment over a specified period of
412 time at any approved public or private treatment facility. A
413 person may be eligible for treatment in lieu of criminal penalties
414 no more than one (1) time.

415 (7) In any proceeding resulting from a report made pursuant
416 to Section 43-21-353 of the Youth Court Law, the testimony of the
417 physician making the report regarding the child's injuries or



418 condition or cause thereof shall not be excluded on the ground
419 that the physician's testimony violates the physician-patient
420 privilege or similar privilege or rule against disclosure. The
421 physician's report shall not be considered as evidence unless
422 introduced as an exhibit to his testimony.

423 (8) Any criminal prosecution arising from a violation of
424 this section shall be tried in the circuit, county, justice or
425 municipal court having jurisdiction; provided, however, that
426 nothing herein shall abridge or dilute the contempt powers of the
427 youth court.

428 **SECTION 3.** Section 37-13-92, Mississippi Code of 1972, is
429 amended as follows:

430 37-13-92. (1) Beginning with the school year * * *
431 2014-2015, the school boards of all school districts shall
432 establish, maintain and operate, in connection with the regular
433 programs of the school district, an alternative school program or
434 behavior modification program as defined by the State Board of
435 Education for, but not limited to, the following categories of
436 compulsory-school-age students:

437 (a) Any compulsory-school-age child who has been
438 suspended for more than ten (10) days or expelled from school,
439 except for any student expelled for possession of a weapon or
440 other felonious conduct;

441 (b) Any compulsory-school-age child referred to such
442 alternative school based upon a documented need for placement in



443 the alternative school program by the parent, legal guardian or
444 custodian of such child due to disciplinary problems;

445 (c) Any compulsory-school-age child referred to such
446 alternative school program by the dispositive order of a
447 chancellor or youth court judge, with the consent of the
448 superintendent of the child's school district;

449 (d) Any compulsory-school-age child whose presence in
450 the classroom, in the determination of the school superintendent
451 or principal, is a disruption to the educational environment of
452 the school or a detriment to the interest and welfare of the
453 students and teachers of such class as a whole; and

454 (e) No school district is required to place a child
455 returning from out-of-home placement in the mental health,
456 juvenile justice or foster care system in alternative school.
457 Placement of a child in the alternative school shall be done
458 consistently, and for students identified under the Individuals
459 with Disabilities Education Act (IDEA), shall adhere to the
460 requirements of the Individuals with Disabilities Education
461 Improvement Act of 2004. If a school district chooses to place a
462 child in alternative school the district will make an individual
463 assessment and evaluation of that child in the following time
464 periods:

465 (i) Five (5) days for a child transitioning from a
466 group home, mental health care system, and/or the custody of the



467 Department of Human Services, Division of Youth and Family
468 Services * * *;

469 (ii) Ten (10) days for a child transitioning from
470 a dispositional placement order by a youth court pursuant to
471 Section 43-21-605; and

472 (iii) An individualized assessment for youth
473 transitioning from out-of-home placement to the alternative school
474 shall include:

475 1. A strength needs assessment.

476 2. A determination of the child's academic
477 strengths and deficiencies.

478 3. A proposed plan for transitioning the
479 child to a regular education placement at the earliest possible
480 date.

481 (2) The principal or program administrator of any such
482 alternative school program shall require verification from the
483 appropriate guidance counselor of any such child referred to the
484 alternative school program regarding the suitability of such child
485 for attendance at the alternative school program. Before a
486 student may be removed to an alternative school education program,
487 the superintendent of the student's school district must determine
488 that the written and distributed disciplinary policy of the local
489 district is being followed. The policy shall include standards
490 for:



491 (a) The removal of a student to an alternative
492 education program that will include a process of educational
493 review to develop the student's individual instruction plan and
494 the evaluation at regular intervals of the student's educational
495 progress; the process shall include classroom teachers and/or
496 other appropriate professional personnel, as defined in the
497 district policy, to ensure a continuing educational program for
498 the removed student;

499 (b) The duration of alternative placement; and

500 (c) The notification of parents or guardians, and their
501 appropriate inclusion in the removal and evaluation process, as
502 defined in the district policy. Nothing in this paragraph should
503 be defined in a manner to circumvent the principal's or the
504 superintendent's authority to remove a student to alternative
505 education.

506 (3) The local school board or the superintendent shall
507 provide for the continuing education of a student who has been
508 removed to an alternative school program.

509 (4) A school district, in its discretion, may provide a
510 program of general educational development (GED) preparatory
511 instruction in the alternative school program. However, any GED
512 preparation program offered in an alternative school program must
513 be administered in compliance with the rules and regulations
514 established for such programs under Sections 37-35-1 through



515 37-35-11 and by the State Board for Community and Junior Colleges.
516 The school district may administer the General Educational
517 Development (GED) Testing Program under the policies and
518 guidelines of the GED Testing Service of the American Council on
519 Education in the alternative school program or may authorize the
520 test to be administered through the community/junior college
521 district in which the alternative school is situated.

522 (5) Any such alternative school program operated under the
523 authority of this section shall meet all appropriate accreditation
524 requirements of the State Department of Education.

525 (6) The alternative school program may be held within such
526 school district or may be operated by two (2) or more adjacent
527 school districts, pursuant to a contract approved by the State
528 Board of Education. When two (2) or more school districts
529 contract to operate an alternative school program, the school
530 board of a district designated to be the lead district shall serve
531 as the governing board of the alternative school program.
532 Transportation for students attending the alternative school
533 program shall be the responsibility of the local school district.
534 The expense of establishing, maintaining and operating such
535 alternative school program may be paid from funds contributed or
536 otherwise made available to the school district for such purpose
537 or from local district maintenance funds.

538 (7) The State Board of Education shall promulgate minimum
539 guidelines for alternative school programs. The guidelines shall



540 require, at a minimum, the formulation of an individual
541 instruction plan for each student referred to the alternative
542 school program and, upon a determination that it is in a student's
543 best interest for that student to receive general educational
544 development (GED) preparatory instruction, that the local school
545 board assign the student to a GED preparatory program established
546 under subsection (4) of this section. The minimum guidelines for
547 alternative school programs shall also require the following
548 components:

549 (a) Clear guidelines and procedures for placement of
550 students into alternative education programs which at a minimum
551 shall prescribe due process procedures for disciplinary and
552 general educational development (GED) placement;

553 (b) Clear and consistent goals for students and
554 parents;

555 (c) Curricula addressing cultural and learning style
556 differences;

557 (d) Direct supervision of all activities on a closed
558 campus;

559 (e) Attendance requirements that allow for educational
560 and workforce development opportunities;

561 (f) Selection of program from options provided by the
562 local school district, Division of Youth Services or the youth
563 court, including transfer to a community-based alternative school;



564 (g) Continual monitoring and evaluation and formalized
565 passage from one (1) step or program to another;
566 (h) A motivated and culturally diverse staff;
567 (i) Counseling for parents and students;
568 (j) Administrative and community support for the
569 program; and
570 (k) Clear procedures for annual alternative school
571 program review and evaluation.

572 (8) On request of a school district, the State Department of
573 Education shall provide the district informational material on
574 developing an alternative school program that takes into
575 consideration size, wealth and existing facilities in determining
576 a program best suited to a district.

577 (9) Any compulsory-school-age child who becomes involved in
578 any criminal or violent behavior shall be removed from such
579 alternative school program and, if probable cause exists, a case
580 shall be referred to the youth court.

581 (10) The State Board of Education shall promulgate
582 guidelines for alternative school programs which provide broad
583 authority to school boards of local school districts to establish
584 alternative education programs to meet the specific needs of the
585 school district.

586 (11) Each school district having an alternative school
587 program shall submit a report annually to the State Department of
588 Education describing the results of its annual alternative school



589 program review and evaluation undertaken pursuant to subsection
590 (7)(k). The report shall include a detailed account of any
591 actions taken by the school district during the previous year to
592 comply with substantive guidelines promulgated by the State Board
593 of Education under subsection (7)(a) through (j).

594 **SECTION 4.** This act shall take effect and be in force from
595 and after July 1, 2014.

