

By: Senator(s) Butler (38th)

To: Education

SENATE BILL NO. 2349

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; AND FOR RELATED PURPOSES.

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

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

8 37-13-91. (1) This section shall be referred to as the
9 "Mississippi Compulsory School Attendance Law."

10 (2) The following terms as used in this section are defined
11 as follows:

12 (a) "Parent" means the father or mother to whom a child
13 has been born, or the father or mother by whom a child has been
14 legally adopted.

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



18 (c) "Custodian" means any person having the present
19 care or custody of a child, other than a parent or guardian of the
20 child.

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

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

31 (f) "Compulsory-school-age child" means a child who has
32 attained or will attain the age of * * * five (5) years on or
33 before September 1 of the calendar year and who has not attained
34 the age of seventeen (17) years on or before September 1 of the
35 calendar year * * *.

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

38 (h) "Appropriate school official" means the
39 superintendent of the school district, or his designee, or, in the
40 case of a nonpublic school, the principal or the headmaster.

41 (i) "Nonpublic school" means an institution for the
42 teaching of children, consisting of a physical plant, whether



43 owned or leased, including a home, instructional staff members and
44 students, and which is in session each school year. This
45 definition shall include, but not be limited to, private, church,
46 parochial and home instruction programs.

47 (3) A parent, guardian or custodian of a
48 compulsory-school-age child in this state shall cause the child to
49 enroll in and attend a public school or legitimate nonpublic
50 school for the period of time that the child is of compulsory
51 school age, except under the following circumstances:

52 (a) When a compulsory-school-age child is physically,
53 mentally or emotionally incapable of attending school as
54 determined by the appropriate school official based upon
55 sufficient medical documentation.

56 (b) When a compulsory-school-age child is enrolled in
57 and pursuing a course of special education, remedial education or
58 education for handicapped or physically or mentally disadvantaged
59 children.

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

62 The parent, guardian or custodian of a compulsory-school-age
63 child described in this subsection, or the parent, guardian or
64 custodian of a compulsory-school-age child attending any charter
65 school or nonpublic school, or the appropriate school official for
66 any or all children attending a charter school or nonpublic school



67 shall complete a "certificate of enrollment" in order to
68 facilitate the administration of this section.

69 The form of the certificate of enrollment shall be prepared
70 by the Office of Compulsory School Attendance Enforcement of the
71 State Department of Education and shall be designed to obtain the
72 following information only:

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

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

77 (iii) A simple description of the type of
78 education the compulsory-school-age child is receiving and, if the
79 child is enrolled in a nonpublic school, the name and address of
80 the school; and

81 (iv) The signature of the parent, guardian or
82 custodian of the compulsory-school-age child or, for any or all
83 compulsory-school-age child or children attending a charter school
84 or nonpublic school, the signature of the appropriate school
85 official and the date signed.

86 The certificate of enrollment shall be returned to the school
87 attendance officer where the child resides on or before September
88 15 of each year. Any parent, guardian or custodian found by the
89 school attendance officer to be in noncompliance with this section
90 shall comply, after written notice of the noncompliance by the
91 school attendance officer, with this subsection within ten (10)



92 days after the notice or be in violation of this section.
93 However, in the event the child has been enrolled in a public
94 school within fifteen (15) calendar days after the first day of
95 the school year as required in subsection (6), the parent or
96 custodian may, at a later date, enroll the child in a legitimate
97 nonpublic school or legitimate home instruction program and send
98 the certificate of enrollment to the school attendance officer and
99 be in compliance with this subsection.

100 For the purposes of this subsection, a legitimate nonpublic
101 school or legitimate home instruction program shall be those not
102 operated or instituted for the purpose of avoiding or
103 circumventing the compulsory attendance law.

104 (4) An "unlawful absence" is an absence for an entire school
105 day or during part of a school day by a compulsory-school-age
106 child, which absence is not due to a valid excuse for temporary
107 nonattendance. For purposes of reporting absenteeism under
108 subsection (6) of this section, if a compulsory-school-age child
109 has an absence that is more than thirty-seven percent (37%) of the
110 instructional day, as fixed by the school board for the school at
111 which the compulsory-school-age child is enrolled, the child must
112 be considered absent the entire school day. Days missed from
113 school due to disciplinary suspension shall not be considered an
114 "excused" absence under this section. This subsection shall not
115 apply to children enrolled in a nonpublic school.



116 Each of the following shall constitute a valid excuse for
117 temporary nonattendance of a compulsory-school-age child enrolled
118 in a noncharter public school, provided satisfactory evidence of
119 the excuse is provided to the superintendent of the school
120 district, or his designee:

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

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

130 (c) An absence is excused when isolation of a
131 compulsory-school-age child is ordered by the county health
132 officer, by the State Board of Health or appropriate school
133 official.

134 (d) An absence is excused when it results from the
135 death or serious illness of a member of the immediate family of a
136 compulsory-school-age child. The immediate family members of a
137 compulsory-school-age child shall include children, spouse,
138 grandparents, parents, brothers and sisters, including
139 stepbrothers and stepsisters.



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

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

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

153 (h) An absence may be excused when it is demonstrated
154 to the satisfaction of the superintendent of the school district,
155 or his designee, that the purpose of the absence is to take
156 advantage of a valid educational opportunity such as travel,
157 including vacations or other family travel. Approval of the
158 absence must be gained from the superintendent of the school
159 district, or his designee, before the absence, but the approval
160 shall not be unreasonably withheld.

161 (i) An absence may be excused when it is demonstrated
162 to the satisfaction of the superintendent of the school district,
163 or his designee, that conditions are sufficient to warrant the
164 compulsory-school-age child's nonattendance. However, no absences



165 shall be excused by the school district superintendent, or his
166 designee, when any student suspensions or expulsions circumvent
167 the intent and spirit of the compulsory attendance law.

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

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

179 (5) Any parent, guardian or custodian of a
180 compulsory-school-age child subject to this section who refuses or
181 willfully fails to perform any of the duties imposed upon him or
182 her under this section or who intentionally falsifies any
183 information required to be contained in a certificate of
184 enrollment, shall be guilty of contributing to the neglect of a
185 child and, upon conviction, shall be punished in accordance with
186 Section 97-5-39.

187 Upon prosecution of a parent, guardian or custodian of a
188 compulsory-school-age child for violation of this section, the
189 presentation of evidence by the prosecutor that shows that the



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

204 (6) If a compulsory-school-age child has not been enrolled
205 in a school within fifteen (15) calendar days after the first day
206 of the school year of the school which the child is eligible to
207 attend or the child has accumulated five (5) unlawful absences
208 during the school year of the public school in which the child is
209 enrolled, the school district superintendent or his designee shall
210 report, within two (2) school days or within five (5) calendar
211 days, whichever is less, the absences to the school attendance
212 officer. The State Department of Education shall prescribe a
213 uniform method for schools to utilize in reporting the unlawful
214 absences to the school attendance officer. The superintendent or



215 his designee, also shall report any student suspensions or student
216 expulsions to the school attendance officer when they occur.

217 (7) When a school attendance officer has made all attempts
218 to secure enrollment and/or attendance of a compulsory-school-age
219 child and is unable to effect the enrollment and/or attendance,
220 the attendance officer shall file a petition with the youth court
221 under Section 43-21-451 or shall file a petition in a court of
222 competent jurisdiction as it pertains to parent or child.
223 Sheriffs, deputy sheriffs and municipal law enforcement officers
224 shall be fully authorized to investigate all cases of
225 nonattendance and unlawful absences by compulsory-school-age
226 children, and shall be authorized to file a petition with the
227 youth court under Section 43-21-451 or file a petition or
228 information in the court of competent jurisdiction as it pertains
229 to parent or child for violation of this section. The youth court
230 shall expedite a hearing to make an appropriate adjudication and a
231 disposition to ensure compliance with the Compulsory School
232 Attendance Law, and may order the child to enroll or re-enroll in
233 school. The superintendent of the school district to which the
234 child is ordered may assign, in his discretion, the child to the
235 alternative school program of the school established pursuant to
236 Section 37-13-92.

237 (8) The State Board of Education shall adopt rules and
238 regulations for the purpose of reprimanding any school



239 superintendents who fail to timely report unexcused absences under
240 the provisions of this section.

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

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

