

By: Senator(s) Dawkins, Simmons (12th)

To: Education;  
Appropriations

SENATE BILL NO. 2815

1 AN ACT ENTITLED THE "ROSEMARY HAYES WILLIAMS KINDERGARTEN  
2 ATTENDANCE ACT"; TO AMEND SECTION 37-13-91, MISSISSIPPI CODE OF  
3 1972, TO PROVIDE THAT THE PROVISIONS OF THE MISSISSIPPI COMPULSORY  
4 SCHOOL ATTENDANCE LAW ARE FULLY APPLICABLE TO KINDERGARTEN-AGE  
5 CHILDREN; TO REQUIRE SUCH KINDERGARTEN-AGE CHILDREN TO ATTEND  
6 LICENSED PUBLIC, PAROCHIAL OR NONPUBLIC SCHOOL KINDERGARTEN  
7 PROGRAMS; AND FOR 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 referred to as the  
12 "Mississippi Compulsory School Attendance Law."

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

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

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



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

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

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

38 (f) Beginning with the 2014-2015 school year,  
39 "Compulsory-school-age child" means a child who has attained or  
40 will attain the age of six (6) years on or before September 1 of  
41 the calendar year and who has not attained the age of \* \* \* five  
42 (5) years on or before September 1 of the calendar year \* \* \*.

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

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

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

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

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

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



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

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

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



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

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

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

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

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

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



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

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

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

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

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



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

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

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

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





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

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

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



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

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



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

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

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



266            **SECTION 2.** This act shall be entitled and may be cited as  
267 the "RoseMary Hayes Williams Kindergarten Attendance Act."

268            **SECTION 3.** This act shall take effect and be in force from  
269 and after July 1, 2014.

