

By: Representative Baria

To: Education; Revenue and
Expenditure General Bills

HOUSE BILL NO. 254

1 AN ACT TO AMEND SECTION 37-13-91, MISSISSIPPI CODE OF 1972,
2 TO REVISE THE DEFINITION OF THE TERM "COMPULSORY-SCHOOL-AGE CHILD"
3 TO INCLUDE CHILDREN WHO ATTAIN THE AGE OF FIVE YEARS ON OR BEFORE
4 SEPTEMBER 1 UNDER THE COMPULSORY SCHOOL ATTENDANCE LAW; TO AMEND
5 SECTIONS 37-7-339 AND 37-41-3, MISSISSIPPI CODE OF 1972, IN
6 CONFORMITY TO THE PROVISIONS OF THIS ACT; AND FOR RELATED
7 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 and one-half
25 (5-1/2) and not more than eight (8) hours of actual teaching in
26 which both teachers and pupils are in regular attendance for
27 scheduled 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.

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

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

41 (h) "Appropriate school official" means the
42 superintendent of the school district, or his designee, or, in the
43 case of a nonpublic school, the principal or the headmaster.

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



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

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

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

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

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

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



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

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

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

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

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

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

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



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

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

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



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

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

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

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

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



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

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

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

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

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



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

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

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

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

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



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

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



218 superintendent, or his designee, also shall report any student
219 suspensions or student expulsions to the school attendance officer
220 when they occur.

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

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



243 superintendents who fail to timely report unexcused absences under
244 the provisions of this section.

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

263 **SECTION 2.** Section 37-7-339, Mississippi Code of 1972, is
264 amended as follows:

265 37-7-339. (1) The school board of any local school
266 district, in its discretion, may provide extended day and extended
267 school year programs for * * * compulsory-school-age



268 students * * * and may expend any funds for these purposes which
269 are available from sources other than the adequate education
270 program. It is not the intent of the Legislature, in enacting
271 this section, to interfere with the Headstart program. School
272 boards, in their discretion, may charge participants a reasonable
273 fee for such programs.

274 (2) The school board of any school district may adopt any
275 orders, policies, rules or regulations with respect to instruction
276 within that school district for which no specific provision has
277 been made by general law and which are not inconsistent with the
278 Mississippi Constitution of 1890, the Mississippi Code of 1972, or
279 any order, policy, rule or regulation of the State Board of
280 Education; those school boards also may alter, modify and repeal
281 any orders, policies, rules or regulations enacted under this
282 subsection. Any such program pertaining to reading must further
283 the goal that Mississippi students will demonstrate a growing
284 proficiency in reading and will reach or exceed the national
285 average within the next decade.

286 **SECTION 3.** Section 37-41-3, Mississippi Code of 1972, is
287 amended as follows:

288 37-41-3. * * * Compulsory-school-age children in actual
289 attendance in the public schools who live a distance of one (1)
290 mile or more by the nearest traveled road from the school to which
291 they are assigned by the school district in which they are
292 enrolled shall be entitled to transportation within the meaning of



293 this chapter. Nothing contained in this section shall be
294 construed to bar any child from such transportation where he or
295 she lives less than one (1) mile and is on the regular route of
296 travel of a school bus and space is available in such bus for such
297 transportation. No state funds shall be paid for the
298 transportation of children living within one (1) mile of the
299 school, except as otherwise provided in this chapter, and such
300 children shall not be included in transportation reports. In the
301 development of route plans, economy shall be a prime
302 consideration. There shall be no duplication of routes except in
303 circumstances where it is totally unavoidable. The State
304 Department of Education shall have authority to investigate school
305 bus routing when there is reason to believe the provisions of this
306 statute are being violated. The State Board of Education shall
307 have authority to withhold transportation funds when school
308 districts fail to correct unnecessary route duplication. Provided
309 further, that all school districts are hereby authorized to lease
310 or contract with any public or private individual, partnership,
311 corporation, association, agency or other organization for the
312 implementation of transportation of pupils as provided for in this
313 section.

314 The school boards may provide transportation to such * * *
315 children with disabilities as may be designated by such boards,
316 when the failure to do so would result in undue hardship, even
317 though the children are not otherwise entitled to transportation



318 under the provisions of this chapter. The State Department of
319 Education shall require all school districts * * * to equip school
320 buses with properly designed seat belts to protect * * * children
321 with disabilities, and school districts are authorized to expend
322 funds therefor from * * * sources other than adequate education
323 program funds.

324 Where space is available, students attending community and
325 junior colleges shall be allowed transportation on established
326 routes in district-owned buses. However, no additional funds
327 shall be allocated or expended for such purposes, and such persons
328 shall not be included in transportation reports.

329 Children enrolled in special or alternative programs approved
330 by school boards may be provided transportation even though such
331 children are not otherwise entitled to transportation under the
332 provisions of this chapter. No additional funds shall be
333 allocated or expended for such purpose, and such children shall
334 not be included in transportation reports.

335 **SECTION 4.** This act shall take effect and be in force from
336 and after July 1, 2017.

