

By: Representative Chism

To: Education

HOUSE BILL NO. 268

1 AN ACT TO AMEND SECTION 37-13-91, MISSISSIPPI CODE OF 1972,  
2 TO REVISE THE DEFINITION OF A COMPULSORY-SCHOOL-AGE CHILD BY  
3 INCREASING THE MAXIMUM AGE REQUIRED FOR COMPULSORY ATTENDANCE TO  
4 INCLUDE CHILDREN WHO HAVE NOT ATTAINED THE AGE OF EIGHTEEN YEARS  
5 ON OR BEFORE SEPTEMBER 1 OF THE CALENDAR YEAR; AND FOR RELATED  
6 PURPOSES.

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

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

10 37-13-91. (1) This section shall be referred to as the  
11 "Mississippi Compulsory School Attendance Law."

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

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

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



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

23 (d) "School day" means not less than five and one-half  
24 (5-1/2) and not more than eight (8) hours of actual teaching in  
25 which both teachers and pupils are in regular attendance for  
26 scheduled schoolwork.

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

33 (f) "Compulsory-school-age child" means a child who has  
34 attained or will attain the age of six (6) years on or before  
35 September 1 of the calendar year and who has not attained the age  
36 of \* \* \* eighteen (18) years on or before September 1 of the  
37 calendar year; and shall include any child who has attained or  
38 will attain the age of five (5) years on or before September 1 and  
39 has enrolled in a full-day public school kindergarten program.

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

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



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

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

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

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

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

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



70 any or all children attending a charter school or nonpublic school  
71 shall complete a "certificate of enrollment" in order to  
72 facilitate the administration of this section.

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

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

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

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

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

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



95 school attendance officer, with this subsection within ten (10)  
96 days after the notice or be in violation of this section.  
97 However, in the event the child has been enrolled in a public  
98 school within fifteen (15) calendar days after the first day of  
99 the school year as required in subsection (6), the parent or  
100 custodian may, at a later date, enroll the child in a legitimate  
101 nonpublic school or legitimate home instruction program and send  
102 the certificate of enrollment to the school attendance officer and  
103 be in compliance with this subsection.

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

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



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

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

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

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

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



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

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

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

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

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



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

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

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

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

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





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

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



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

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

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



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

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

264 **SECTION 2.** This act shall take effect and be in force from  
265 and after July 1, 2017.

