

By: Representative Moore

To: Education

HOUSE BILL NO. 565

1 AN ACT TO AMEND SECTION 37-13-91, MISSISSIPPI CODE OF 1972,
 2 TO CLARIFY THE COMPULSORY SCHOOL ATTENDANCE LAW, BY AUTHORIZING
 3 SCHOOL DISTRICTS TO CONSIDER A COMPULSORY-SCHOOL-AGE CHILD
 4 PARTICIPATING IN A PREAPPROVED, AUTHORIZED SCHOOL ACTIVITY AS
 5 BEING PRESENT FOR THE PURPOSE OF REPORTING AVERAGE DAILY
 6 ATTENDANCE; AND FOR RELATED 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 seventeen (17) years on or before September 1 of the calendar
37 year; and shall include any child who has attained or will attain
38 the age of five (5) years on or before September 1 and has
39 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 If a compulsory-school-age child is participating in an
121 authorized school activity with the prior approval of the
122 superintendent of the school district, or his/her designee, the
123 student is considered PRESENT for average daily attendance
124 reporting purposes. The activities may include, but are not
125 limited to: field trips, athletic contest, student conventions,
126 musical festivals, 4-H or Future Farmers of America (FFA). The
127 excuse for the 4-H or FFA event must be provided in writing to the
128 appropriate school superintendent by the Extension Agent or High
129 School Agricultural Instructor/FFA Advisor.

130 Each of the following shall constitute a valid excuse for
131 temporary nonattendance of a compulsory-school-age child enrolled
132 in a noncharter public school, provided satisfactory evidence of
133 the excuse is provided to the superintendent of the school
134 district, or his designee:

135 * * *

136 (* * *a) An absence is excused when the absence
137 results from illness or injury which prevents the
138 compulsory-school-age child from being physically able to attend
139 school.

140 (* * *b) An absence is excused when isolation of a
141 compulsory-school-age child is ordered by the county health
142 officer, by the State Board of Health or appropriate school
143 official.



144 (* * *c) An absence is excused when it results from
145 the death or serious illness of a member of the immediate family
146 of a compulsory-school-age child. The immediate family members of
147 a compulsory-school-age child shall include children, spouse,
148 grandparents, parents, brothers and sisters, including
149 stepbrothers and stepsisters.

150 (* * *d) An absence is excused when it results from a
151 medical or dental appointment of a compulsory-school-age child.

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

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

163 (* * *g) An absence may be excused when it is
164 demonstrated to the satisfaction of the superintendent of the
165 school district, or his designee, that the purpose of the absence
166 is to take advantage of a valid educational opportunity such as
167 travel, including vacations or other family travel. Approval of
168 the absence must be gained from the superintendent of the school



169 district, or his designee, before the absence, but the approval
170 shall not be unreasonably withheld.

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

179 * * *

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

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

192 Upon prosecution of a parent, guardian or custodian of a
193 compulsory-school-age child for violation of this section, the



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

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



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

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



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

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

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

