

By: Representatives Moore, Gibbs (72nd)

To: Education

HOUSE BILL NO. 565  
(As Passed the House)

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; TO REDUCE THE MINIMUM COMPULSORY SCHOOL AGE TO FIVE  
7 YEARS; TO AUTHORIZE THE ENROLLMENT OF CHILDREN WHO OBTAIN THE  
8 MINIMUM CUPULSORY SCHOOL AGE ON OR BEFORE DECEMBER 31 OF THE  
9 CALENDAR YEAR; TO GIVE PARENTS OF CHILDREN BORN AFTER SEPTEMBER 1  
10 THE OPTION TO ENROLL THEIR CHILD IN A FULL-DAY PUBLIC SCHOOL; AND  
11 FOR RELATED PURPOSES.

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

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

15 37-13-91. (1) This section shall be referred to as the  
16 "Mississippi Compulsory School Attendance Law."

17 (2) The following terms as used in this section are defined  
18 as follows:

19 (a) "Parent" means the father or mother to whom a child  
20 has been born, or the father or mother by whom a child has been  
21 legally adopted.



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

25 (c) "Custodian" means any person having the present  
26 care or custody of a child, other than a parent or guardian of the  
27 child.

28 (d) "School day" means not less than five and one-half  
29 (5-1/2) and not more than eight (8) hours of actual teaching in  
30 which both teachers and pupils are in regular attendance for  
31 scheduled schoolwork.

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

38 (f) "Compulsory-school-age child" means a child who has  
39 attained or will attain the age of \*\*\* five (5) years on or  
40 before \*\*\* December 31 of the calendar year and who has not  
41 attained the age of seventeen (17) years on or before September 1  
42 of the calendar year \*\*\*. However, any child who attains the  
43 age of six (6) years after September 1 of the calendar year, may  
44 be enrolled in a full-day public school program at the discretion  
45 of the parent or legal guardian.



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

48 (h) "Appropriate school official" means the  
49 superintendent of the school district, or his designee, or, in the  
50 case of a nonpublic school, the principal or the headmaster.

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

57 (3) A parent, guardian or custodian of a  
58 compulsory-school-age child in this state shall cause the child to  
59 enroll in and attend a public school or legitimate nonpublic  
60 school for the period of time that the child is of compulsory  
61 school age, except under the following circumstances:

62 (a) When a compulsory-school-age child is physically,  
63 mentally or emotionally incapable of attending school as  
64 determined by the appropriate school official based upon  
65 sufficient medical documentation.

66 (b) When a compulsory-school-age child is enrolled in  
67 and pursuing a course of special education, remedial education or  
68 education for handicapped or physically or mentally disadvantaged  
69 children.



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

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

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

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

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

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

91 (iv) The signature of the parent, guardian or  
92 custodian of the compulsory-school-age child or, for any or all  
93 compulsory-school-age child or children attending a charter school



94 or nonpublic school, the signature of the appropriate school  
95 official and the date signed.

96 The certificate of enrollment shall be returned to the school  
97 attendance officer where the child resides on or before September  
98 15 of each year. Any parent, guardian or custodian found by the  
99 school attendance officer to be in noncompliance with this section  
100 shall comply, after written notice of the noncompliance by the  
101 school attendance officer, with this subsection within ten (10)  
102 days after the notice or be in violation of this section.

103 However, in the event the child has been enrolled in a public  
104 school within fifteen (15) calendar days after the first day of  
105 the school year as required in subsection (6), the parent or  
106 custodian may, at a later date, enroll the child in a legitimate  
107 nonpublic school or legitimate home instruction program and send  
108 the certificate of enrollment to the school attendance officer and  
109 be in compliance with this subsection.

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

114 (4) An "unlawful absence" is an absence for an entire school  
115 day or during part of a school day by a compulsory-school-age  
116 child, which absence is not due to a valid excuse for temporary  
117 nonattendance. For purposes of reporting absenteeism under  
118 subsection (6) of this section, if a compulsory-school-age child



119 has an absence that is more than thirty-seven percent (37%) of the  
120 instructional day, as fixed by the school board for the school at  
121 which the compulsory-school-age child is enrolled, the child must  
122 be considered absent the entire school day. Days missed from  
123 school due to disciplinary suspension shall not be considered an  
124 "excused" absence under this section. This subsection shall not  
125 apply to children enrolled in a nonpublic school.

126 If a compulsory-school-age child is participating in an  
127 authorized school activity with the prior approval of the  
128 superintendent of the school district, or his/her designee, the  
129 student is considered PRESENT for average daily attendance  
130 reporting purposes. The activities may include, but are not  
131 limited to: field trips, athletic contest, student conventions,  
132 musical festivals, 4-H or Future Farmers of America (FFA). The  
133 excuse for the 4-H or FFA event must be provided in writing to the  
134 appropriate school superintendent by the Extension Agent or High  
135 School Agricultural Instructor/FFA Advisor.

136 Each of the following shall constitute a valid excuse for  
137 temporary nonattendance of a compulsory-school-age child enrolled  
138 in a noncharter public school, provided satisfactory evidence of  
139 the excuse is provided to the superintendent of the school  
140 district, or his designee:

141 \* \* \*

142 ( \* \* \*a) An absence is excused when the absence  
143 results from illness or injury which prevents the



144 compulsory-school-age child from being physically able to attend  
145 school.

146 ( \* \* \*b) An absence is excused when isolation of a  
147 compulsory-school-age child is ordered by the county health  
148 officer, by the State Board of Health or appropriate school  
149 official.

150 ( \* \* \*c) An absence is excused when it results from  
151 the death or serious illness of a member of the immediate family  
152 of a compulsory-school-age child. The immediate family members of  
153 a compulsory-school-age child shall include children, spouse,  
154 grandparents, parents, brothers and sisters, including  
155 stepbrothers and stepsisters.

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

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

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



169 ( \* \* \*g) An absence may be excused when it is  
170 demonstrated to the satisfaction of the superintendent of the  
171 school district, or his designee, that the purpose of the absence  
172 is to take advantage of a valid educational opportunity such as  
173 travel, including vacations or other family travel. Approval of  
174 the absence must be gained from the superintendent of the school  
175 district, or his designee, before the absence, but the approval  
176 shall not be unreasonably withheld.

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

185 \* \* \*

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

190 (5) Any parent, guardian or custodian of a  
191 compulsory-school-age child subject to this section who refuses or  
192 willfully fails to perform any of the duties imposed upon him or  
193 her under this section or who intentionally falsifies any





194 information required to be contained in a certificate of  
195 enrollment, shall be guilty of contributing to the neglect of a  
196 child and, upon conviction, shall be punished in accordance with  
197 Section 97-5-39.

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

215       (6) If a compulsory-school-age child has not been enrolled  
216 in a school within fifteen (15) calendar days after the first day  
217 of the school year of the school which the child is eligible to  
218 attend or the child has accumulated five (5) unlawful absences



219 during the school year of the public school in which the child is  
220 enrolled, the school district superintendent, or his designee,  
221 shall report, within two (2) school days or within five (5)  
222 calendar days, whichever is less, the absences to the school  
223 attendance officer. The State Department of Education shall  
224 prescribe a uniform method for schools to utilize in reporting the  
225 unlawful absences to the school attendance officer. The  
226 superintendent, or his designee, also shall report any student  
227 suspensions or student expulsions to the school attendance officer  
228 when they occur.

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



244 Attendance Law, and may order the child to enroll or re-enroll in  
245 school. The superintendent of the school district to which the  
246 child is ordered may assign, in his discretion, the child to the  
247 alternative school program of the school established pursuant to  
248 Section 37-13-92.

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

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



269 curriculum, admissions policy or discipline of any such school or  
270 home instruction program.

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

