

By: Representative Gibbs (72nd)

To: Education; Revenue and
Expenditure General Bills

HOUSE BILL NO. 586

1 AN ACT TO AMEND SECTION 37-13-91, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT THE "MISSISSIPPI COMPULSORY SCHOOL ATTENDANCE LAW"
3 MAY BE REFERRED TO AS THE "KINDERGARTEN INCREASES DIPLOMAS (KIDS)
4 ACT" TO REVISE THE DEFINITION OF THE TERM "COMPULSORY-SCHOOL-AGE
5 CHILD" TO INCLUDE CHILDREN WHO ATTAIN THE AGE OF FIVE YEARS BEFORE
6 SEPTEMBER 1 UNDER THE COMPULSORY SCHOOL ATTENDANCE LAW; AND FOR
7 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 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 * * *. A five-year-old child * * * shall be
39 enrolled in a full-day public school kindergarten program of
40 instruction and, that child and the child's parent or legal
41 guardian shall be subject to the provisions of this section.

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



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

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

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

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

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

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



68 (d) When a compulsory-school-age child, who has
69 attained the age of five (5) years, is being educated in a
70 licensed child care facility, including day nurseries and day care
71 centers, that offers a structured school or school readiness
72 program.

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

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

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

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

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



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

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

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

115 (4) An "unlawful absence" is an absence for an entire school
116 day or during part of a school day by a compulsory-school-age



117 child, which absence is not due to a valid excuse for temporary
118 nonattendance. For purposes of reporting absenteeism under
119 subsection (6) of this section, if a compulsory-school-age child
120 has an absence that is more than thirty-seven percent (37%) of the
121 instructional day, as fixed by the school board for the school at
122 which the compulsory-school-age child is enrolled, the child must
123 be considered absent the entire school day. Days missed from
124 school due to disciplinary suspension shall not be considered an
125 "excused" absence under this section. This subsection shall not
126 apply to children enrolled in a nonpublic school.

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

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

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



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

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

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

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

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

164 (h) 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 the purpose of the absence is to take
167 advantage of a valid educational opportunity such as travel,
168 including vacations or other family travel. Approval of the
169 absence must be gained from the superintendent of the school
170 district, or his designee, before the absence, but the approval
171 shall not be unreasonably withheld.

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

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

186 (k) An absence is excused when it results from the
187 compulsory-school-age child officially being employed to serve as
188 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.

