

By: Senator(s) Blackmon

To: Education

## SENATE BILL NO. 2881

1 AN ACT TO REQUIRE CHILDREN WHO ARE YOUNGER THAN 18 TO TAKE  
2 THE ACT PRIOR TO DROPPING OUT OF SCHOOL; TO PROVIDE THAT IF THE  
3 CHILD CANNOT ATTAIN A CERTAIN ACT SCORE THEY SHALL BE INCLUDED IN  
4 THE COMPULSORY SCHOOL ATTENDANCE LAW UNTIL THEY REACH 18; TO  
5 PROVIDE PENALTIES FOR THE PARENTS OF CHILDREN WHO ARE REQUIRED TO  
6 ATTEND SCHOOL UNTIL 18 THAT MISS A CERTAIN NUMBER OF CONSECUTIVE  
7 DAYS; TO AMEND SECTION 37-13-91, MISSISSIPPI CODE OF 1972, IN  
8 CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

10 **SECTION 1.** Any child under the age of eighteen (18) years of  
11 age who chooses to drop out of school shall first take the  
12 American College Testing (ACT) Test. It is the responsibility of  
13 the school attendance officer of the district where the child  
14 resides to ensure that a child who chooses to drop out of school  
15 takes the ACT. If such child fails to attain a score of  
16 twenty-one (21) on the test, or a score of eighteen (18) in the  
17 case of a child who last attended a failing school, defined as a  
18 school which received a "D" or "F" rating, the child shall be  
19 required to attend school until the age of eighteen (18) in  
20 accordance with Section 37-13-91.



21           **SECTION 2.** Section 37-13-91, Mississippi Code of 1972, is  
22 amended as follows:

23           37-13-91. (1) This section shall be referred to as the  
24 "Mississippi Compulsory School Attendance Law."

25           (2) The following terms as used in this section are defined  
26 as follows:

27           (a) "Parent" means the father or mother to whom a child  
28 has been born, or the father or mother by whom a child has been  
29 legally adopted.

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

33           (c) "Custodian" means any person having the present  
34 care or custody of a child, other than a parent or guardian of the  
35 child.

36           (d) "School day" means not less than five and one-half  
37 (5-1/2) and not more than eight (8) hours of actual teaching in  
38 which both teachers and pupils are in regular attendance for  
39 scheduled schoolwork.

40           (e) "School" means any public school, including a  
41 charter school, in this state or any nonpublic school in this  
42 state which is in session each school year for at least one  
43 hundred eighty (180) school days, except that the "nonpublic"  
44 school term shall be the number of days that each school shall  
45 require for promotion from grade to grade.



46 (f) "Compulsory-school-age child" means a child who has  
47 attained or will attain the age of six (6) years on or before  
48 September 1 of the calendar year and who has not attained the age  
49 of seventeen (17) years on or before September 1 of the calendar  
50 year; and shall include any child who has attained or will attain  
51 the age of five (5) years on or before September 1 and has  
52 enrolled in a full-day public school kindergarten program; and  
53 shall include any child who is under the age of eighteen (18) and  
54 chooses to drop out of public school but cannot attain the  
55 required ACT score as provided in Section 1 of this act.

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

58 (h) "Appropriate school official" means the  
59 superintendent of the school district, or his designee, or, in the  
60 case of a nonpublic school, the principal or the headmaster.

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

67 (3) A parent, guardian or custodian of a  
68 compulsory-school-age child in this state shall cause the child to  
69 enroll in and attend a public school or legitimate nonpublic



70 school for the period of time that the child is of compulsory  
71 school age, except under the following circumstances:

72 (a) When a compulsory-school-age child is physically,  
73 mentally or emotionally incapable of attending school as  
74 determined by the appropriate school official based upon  
75 sufficient medical documentation.

76 (b) When a compulsory-school-age child is enrolled in  
77 and pursuing a course of special education, remedial education or  
78 education for handicapped or physically or mentally disadvantaged  
79 children.

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

82 The parent, guardian or custodian of a compulsory-school-age  
83 child described in this subsection, or the parent, guardian or  
84 custodian of a compulsory-school-age child attending any charter  
85 school or nonpublic school, or the appropriate school official for  
86 any or all children attending a charter school or nonpublic school  
87 shall complete a "certificate of enrollment" in order to  
88 facilitate the administration of this section.

89 The form of the certificate of enrollment shall be prepared  
90 by the Office of Compulsory School Attendance Enforcement of the  
91 State Department of Education and shall be designed to obtain the  
92 following information only:

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



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

97 (iii) A simple description of the type of  
98 education the compulsory-school-age child is receiving and, if the  
99 child is enrolled in a nonpublic school, the name and address of  
100 the school; and

101 (iv) The signature of the parent, guardian or  
102 custodian of the compulsory-school-age child or, for any or all  
103 compulsory-school-age child or children attending a charter school  
104 or nonpublic school, the signature of the appropriate school  
105 official and the date signed.

106 The certificate of enrollment shall be returned to the school  
107 attendance officer where the child resides on or before September  
108 15 of each year. Any parent, guardian or custodian found by the  
109 school attendance officer to be in noncompliance with this section  
110 shall comply, after written notice of the noncompliance by the  
111 school attendance officer, with this subsection within ten (10)  
112 days after the notice or be in violation of this section.

113 However, in the event the child has been enrolled in a public  
114 school within fifteen (15) calendar days after the first day of  
115 the school year as required in subsection (6), the parent or  
116 custodian may, at a later date, enroll the child in a legitimate  
117 nonpublic school or legitimate home instruction program and send  
118 the certificate of enrollment to the school attendance officer and  
119 be in compliance with this subsection.



120 For the purposes of this subsection, a legitimate nonpublic  
121 school or legitimate home instruction program shall be those not  
122 operated or instituted for the purpose of avoiding or  
123 circumventing the compulsory attendance law.

124 (4) An "unlawful absence" is an absence for an entire school  
125 day or during part of a school day by a compulsory-school-age  
126 child, which absence is not due to a valid excuse for temporary  
127 nonattendance. For purposes of reporting absenteeism under  
128 subsection (6) of this section, if a compulsory-school-age child  
129 has an absence that is more than thirty-seven percent (37%) of the  
130 instructional day, as fixed by the school board for the school at  
131 which the compulsory-school-age child is enrolled, the child must  
132 be considered absent the entire school day. Days missed from  
133 school due to disciplinary suspension shall not be considered an  
134 "excused" absence under this section. This subsection shall not  
135 apply to children enrolled in a nonpublic school.

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 (a) An absence is excused when the absence results from  
142 the compulsory-school-age child's attendance at an authorized  
143 school activity with the prior approval of the superintendent of  
144 the school district, or his designee. These activities may



145 include field trips, athletic contests, student conventions,  
146 musical festivals and any similar activity.

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

150 (c) An absence is excused when isolation of a  
151 compulsory-school-age child is ordered by the county health  
152 officer, by the State Board of Health or appropriate school  
153 official.

154 (d) An absence is excused when it results from the  
155 death or serious illness of a member of the immediate family of a  
156 compulsory-school-age child. The immediate family members of a  
157 compulsory-school-age child shall include children, spouse,  
158 grandparents, parents, brothers and sisters, including  
159 stepbrothers and stepsisters.

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

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

166 (g) An absence may be excused if the religion to which  
167 the compulsory-school-age child or the child's parents adheres,  
168 requires or suggests the observance of a religious event. The  
169 approval of the absence is within the discretion of the



170 superintendent of the school district, or his designee, but  
171 approval should be granted unless the religion's observance is of  
172 such duration as to interfere with the education of the child.

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

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

188 (j) An absence is excused when it results from the  
189 attendance of a compulsory-school-age child participating in  
190 official organized events sponsored by the 4-H or Future Farmers  
191 of America (FFA). The excuse for the 4-H or FFA event must be  
192 provided in writing to the appropriate school superintendent by  
193 the Extension Agent or High School Agricultural Instructor/FFA  
194 Advisor.





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

199           (5) Any parent, guardian or custodian of a  
200 compulsory-school-age child subject to this section who refuses or  
201 willfully fails to perform any of the duties imposed upon him or  
202 her under this section or who intentionally falsifies any  
203 information required to be contained in a certificate of  
204 enrollment, shall be guilty of contributing to the neglect of a  
205 child and, upon conviction, shall be punished in accordance with  
206 Section 97-5-39.

207           Upon prosecution of a parent, guardian or custodian of a  
208 compulsory-school-age child for violation of this section, the  
209 presentation of evidence by the prosecutor that shows that the  
210 child has not been enrolled in school within eighteen (18)  
211 calendar days after the first day of the school year of the public  
212 school which the child is eligible to attend, or that the child  
213 has accumulated twelve (12) unlawful absences during the school  
214 year at the public school in which the child has been enrolled,  
215 shall establish a prima facie case that the child's parent,  
216 guardian or custodian is responsible for the absences and has  
217 refused or willfully failed to perform the duties imposed upon him  
218 or her under this section. However, no proceedings under this  
219 section shall be brought against a parent, guardian or custodian



220 of a compulsory-school-age child unless the school attendance  
221 officer has contacted promptly the home of the child and has  
222 provided written notice to the parent, guardian or custodian of  
223 the requirement for the child's enrollment or attendance.

224 (6) If a compulsory-school-age child has not been enrolled  
225 in a school within fifteen (15) calendar days after the first day  
226 of the school year of the school which the child is eligible to  
227 attend or the child has accumulated five (5) unlawful absences  
228 during the school year of the public school in which the child is  
229 enrolled, the school district superintendent, or his designee,  
230 shall report, within two (2) school days or within five (5)  
231 calendar days, whichever is less, the absences to the school  
232 attendance officer. The State Department of Education shall  
233 prescribe a uniform method for schools to utilize in reporting the  
234 unlawful absences to the school attendance officer. The  
235 superintendent, or his designee, also shall report any student  
236 suspensions or student expulsions to the school attendance officer  
237 when they occur.

238 (7) When a school attendance officer has made all attempts  
239 to secure enrollment and/or attendance of a compulsory-school-age  
240 child and is unable to effect the enrollment and/or attendance,  
241 the attendance officer shall file a petition with the youth court  
242 under Section 43-21-451 or shall file a petition in a court of  
243 competent jurisdiction as it pertains to parent or child.  
244 Sheriffs, deputy sheriffs and municipal law enforcement officers



245 shall be fully authorized to investigate all cases of  
246 nonattendance and unlawful absences by compulsory-school-age  
247 children, and shall be authorized to file a petition with the  
248 youth court under Section 43-21-451 or file a petition or  
249 information in the court of competent jurisdiction as it pertains  
250 to parent or child for violation of this section. The youth court  
251 shall expedite a hearing to make an appropriate adjudication and a  
252 disposition to ensure compliance with the Compulsory School  
253 Attendance Law, and may order the child to enroll or re-enroll in  
254 school. The superintendent of the school district to which the  
255 child is ordered may assign, in his discretion, the child to the  
256 alternative school program of the school established pursuant to  
257 Section 37-13-92.

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

262 (9) Notwithstanding any provision or implication herein to  
263 the contrary, it is not the intention of this section to impair  
264 the primary right and the obligation of the parent or parents, or  
265 person or persons in loco parentis to a child, to choose the  
266 proper education and training for such child, and nothing in this  
267 section shall ever be construed to grant, by implication or  
268 otherwise, to the State of Mississippi, any of its officers,  
269 agencies or subdivisions any right or authority to control,



270 manage, supervise or make any suggestion as to the control,  
271 management or supervision of any private or parochial school or  
272 institution for the education or training of children, of any kind  
273 whatsoever that is not a public school according to the laws of  
274 this state; and this section shall never be construed so as to  
275 grant, by implication or otherwise, any right or authority to any  
276 state agency or other entity to control, manage, supervise,  
277 provide for or affect the operation, management, program,  
278 curriculum, admissions policy or discipline of any such school or  
279 home instruction program.

280         **SECTION 3.** This act shall take effect and be in force from  
281 and after July 1, 2017.

