

Senate Amendments to House Bill No. 567

TO THE CLERK OF THE HOUSE:

THIS IS TO INFORM YOU THAT THE SENATE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

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

14 37-13-91. (1) This section shall be referred to as the
15 "Mississippi Compulsory School Attendance Law."

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

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

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

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

27 (d) "School day" means not less than five and one-half
28 (5-1/2) and not more than eight (8) hours of actual teaching in

29 which both teachers and pupils are in regular attendance for
30 scheduled schoolwork.

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

37 (f) "Compulsory-school-age child" means a child who has
38 attained or will attain the age of six (6) years on or before
39 September 1 of the calendar year and who has not attained the age
40 of * * * eighteen (18) years on or before September 1 of the
41 calendar year; and shall include any child who has attained or
42 will attain the age of five (5) years on or before September 1 and
43 has enrolled in a full-day public school kindergarten program.
44 Any child who graduates from high school before his or her
45 eighteenth birthday after receiving the necessary credits through
46 a program of dual enrollment or completing or passing the required
47 examinations for gifted, advanced placement, International
48 Baccalaureate, or high school equivalency programs shall not be
49 included in the definition of a "compulsory-school-aged child.
50 This paragraph (f) shall only apply to students who have attained
51 the age of eighteen (18) years after the start of the school year
52 when the student signs and acknowledges a written agreement to
53 continue in attendance in the current school or school district.
54 The signed agreement cannot be entered into by the student until

55 he or she reaches the constitutional age of majority which allows
56 an individual to legally obligate himself or herself through a
57 binding agreement, which, for purposes of this paragraph, shall
58 not occur until on or after the student's eighteenth birthday.
59 Provided further, that any child who is seventeen (17) years of
60 age shall be allowed to enroll in a high school equivalency
61 program for the purpose of obtaining gainful employment.

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

64 (h) "Appropriate school official" means the
65 superintendent of the school district, or his designee, or, in the
66 case of a nonpublic school, the principal or the headmaster.

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

73 (3) A parent, guardian or custodian of a
74 compulsory-school-age child in this state shall cause the child to
75 enroll in and attend a public school or legitimate nonpublic
76 school for the period of time that the child is of compulsory
77 school age, except under the following circumstances:

78 (a) When a compulsory-school-age child is physically,
79 mentally or emotionally incapable of attending school as

80 determined by the appropriate school official based upon
81 sufficient medical documentation.

82 (b) When a compulsory-school-age child is enrolled in
83 and pursuing a course of special education, remedial education or
84 education for handicapped or physically or mentally disadvantaged
85 children.

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

88 The parent, guardian or custodian of a compulsory-school-age
89 child described in this subsection, or the parent, guardian or
90 custodian of a compulsory-school-age child attending any charter
91 school or nonpublic school, or the appropriate school official for
92 any or all children attending a charter school or nonpublic school
93 shall complete a "certificate of enrollment" in order to
94 facilitate the administration of this section.

95 The form of the certificate of enrollment shall be prepared
96 by the Office of Compulsory School Attendance Enforcement of the
97 State Department of Education and shall be designed to obtain the
98 following information only:

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

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

103 (iii) A simple description of the type of
104 education the compulsory-school-age child is receiving and, if the

105 child is enrolled in a nonpublic school, the name and address of
106 the school; and

107 (iv) The signature of the parent, guardian or
108 custodian of the compulsory-school-age child or, for any or all
109 compulsory-school-age child or children attending a charter school
110 or nonpublic school, the signature of the appropriate school
111 official and the date signed.

112 The certificate of enrollment shall be returned to the school
113 attendance officer where the child resides on or before September
114 15 of each year. Any parent, guardian or custodian found by the
115 school attendance officer to be in noncompliance with this section
116 shall comply, after written notice of the noncompliance by the
117 school attendance officer, with this subsection within ten (10)
118 days after the notice or be in violation of this section.

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

126 For the purposes of this subsection, a legitimate nonpublic
127 school or legitimate home instruction program shall be those not
128 operated or instituted for the purpose of avoiding or
129 circumventing the compulsory attendance law.

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

142 If a compulsory-school-age child is participating in an
143 authorized school activity with the prior approval of the
144 superintendent of the school district, or his/her designee, the
145 student is considered PRESENT for average daily attendance
146 reporting purposes. The activities may include, but are not
147 limited to: field trips, athletic contest, student conventions,
148 musical festivals, 4-H or Future Farmers of America (FFA). The
149 excuse for the 4-H or FFA event must be provided in writing to the
150 appropriate school superintendent by the Extension Agent or High
151 School Agricultural Instructor/FFA Advisor.

152 Each of the following shall constitute a valid excuse for
153 temporary nonattendance of a compulsory-school-age child enrolled
154 in a noncharter public school, provided satisfactory evidence of

155 the excuse is provided to the superintendent of the school
156 district, or his designee:

157 * * *

158 (* * *a) An absence is excused when the absence
159 results from illness or injury which prevents the
160 compulsory-school-age child from being physically able to attend
161 school.

162 (* * *b) An absence is excused when isolation of a
163 compulsory-school-age child is ordered by the county health
164 officer, by the State Board of Health or appropriate school
165 official.

166 (* * *c) An absence is excused when it results from
167 the death or serious illness of a member of the immediate family
168 of a compulsory-school-age child. The immediate family members of
169 a compulsory-school-age child shall include children, spouse,
170 grandparents, parents, brothers and sisters, including
171 stepbrothers and stepsisters.

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

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

178 (* * *f) An absence may be excused if the religion to
179 which the compulsory-school-age child or the child's parents
180 adheres, requires or suggests the observance of a religious event.

181 The approval of the absence is within the discretion of the
182 superintendent of the school district, or his designee, but
183 approval should be granted unless the religion's observance is of
184 such duration as to interfere with the education of the child.

185 (* * *g) An absence may be excused when it is
186 demonstrated to the satisfaction of the superintendent of the
187 school district, or his designee, that the purpose of the absence
188 is to take advantage of a valid educational opportunity such as
189 travel, including vacations or other family travel. Approval of
190 the absence must be gained from the superintendent of the school
191 district, or his designee, before the absence, but the approval
192 shall not be unreasonably withheld.

193 (* * *h) An absence may be excused when it is
194 demonstrated to the satisfaction of the superintendent of the
195 school district, or his designee, that conditions are sufficient
196 to warrant the compulsory-school-age child's nonattendance.
197 However, no absences shall be excused by the school district
198 superintendent, or his designee, when any student suspensions or
199 expulsions circumvent the intent and spirit of the compulsory
200 attendance law.

201 * * *

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

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

214 Upon prosecution of a parent, guardian or custodian of a
215 compulsory-school-age child for violation of this section, the
216 presentation of evidence by the prosecutor that shows that the
217 child has not been enrolled in school within eighteen (18)
218 calendar days after the first day of the school year of the public
219 school which the child is eligible to attend, or that the child
220 has accumulated twelve (12) unlawful absences during the school
221 year at the public school in which the child has been enrolled,
222 shall establish a prima facie case that the child's parent,
223 guardian or custodian is responsible for the absences and has
224 refused or willfully failed to perform the duties imposed upon him
225 or her under this section. However, no proceedings under this
226 section shall be brought against a parent, guardian or custodian
227 of a compulsory-school-age child unless the school attendance
228 officer has contacted promptly the home of the child and has
229 provided written notice to the parent, guardian or custodian of
230 the requirement for the child's enrollment or attendance.

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

245 (7) When a school attendance officer has made all attempts
246 to secure enrollment and/or attendance of a compulsory-school-age
247 child and is unable to effect the enrollment and/or attendance,
248 the attendance officer shall file a petition with the youth court
249 under Section 43-21-451 or shall file a petition in a court of
250 competent jurisdiction as it pertains to parent or child.
251 Sheriffs, deputy sheriffs and municipal law enforcement officers
252 shall be fully authorized to investigate all cases of
253 nonattendance and unlawful absences by compulsory-school-age
254 children, and shall be authorized to file a petition with the
255 youth court under Section 43-21-451 or file a petition or
256 information in the court of competent jurisdiction as it pertains

257 to parent or child for violation of this section. The youth court
258 shall expedite a hearing to make an appropriate adjudication and a
259 disposition to ensure compliance with the Compulsory School
260 Attendance Law, and may order the child to enroll or re-enroll in
261 school. The superintendent of the school district to which the
262 child is ordered may assign, in his discretion, the child to the
263 alternative school program of the school established pursuant to
264 Section 37-13-92.

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

269 (9) Notwithstanding any provision or implication herein to
270 the contrary, it is not the intention of this section to impair
271 the primary right and the obligation of the parent or parents, or
272 person or persons in loco parentis to a child, to choose the
273 proper education and training for such child, and nothing in this
274 section shall ever be construed to grant, by implication or
275 otherwise, to the State of Mississippi, any of its officers,
276 agencies or subdivisions any right or authority to control,
277 manage, supervise or make any suggestion as to the control,
278 management or supervision of any private or parochial school or
279 institution for the education or training of children, of any kind
280 whatsoever that is not a public school according to the laws of
281 this state; and this section shall never be construed so as to
282 grant, by implication or otherwise, any right or authority to any

283 state agency or other entity to control, manage, supervise,
284 provide for or affect the operation, management, program,
285 curriculum, admissions policy or discipline of any such school or
286 home instruction program.

287 **SECTION 2.** This act shall take effect and be in force from
288 and after July 1, 2017, and shall stand repealed from and after
289 June 30, 2017.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

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; TO CLARIFY THE
6 COMPULSORY SCHOOL ATTENDANCE LAW, BY AUTHORIZING SCHOOL DISTRICTS
7 TO CONSIDER A COMPULSORY-SCHOOL-AGE CHILD PARTICIPATING IN A
8 PREAPPROVED, AUTHORIZED SCHOOL ACTIVITY AS BEING PRESENT FOR THE
9 PURPOSE OF REPORTING AVERAGE DAILY ATTENDANCE; AND FOR RELATED
10 PURPOSES.

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Liz Welch
Secretary of the Senate