

By: Representatives Zuber, Gibbs (72nd)

To: Education

HOUSE BILL NO. 75

1 AN ACT TO AMEND SECTION 37-13-91, MISSISSIPPI CODE OF 1972,
2 TO FURTHER CLARIFY THE COMPULSORY SCHOOL ATTENDANCE LAW TO REMOVE
3 ABSENCES SUBSTANTIATED BY VACATIONS AND OTHER FAMILY TRAVEL AS
4 ELIGIBLE EXCUSED ABSENCES; AND FOR RELATED PURPOSES.

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

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

8 37-13-91. (1) This section shall be referred to as the
9 "Mississippi Compulsory School Attendance Law."

10 (2) The following terms as used in this section are defined
11 as follows:

12 (a) "Parent" means the father or mother to whom a child
13 has been born, or the father or mother by whom a child has been
14 legally adopted.

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



18 (c) "Custodian" means any person having the present
19 care or custody of a child, other than a parent or guardian of the
20 child.

21 (d) "School day" means not less than five and one-half
22 (5-1/2) and not more than eight (8) hours of actual teaching in
23 which both teachers and pupils are in regular attendance for
24 scheduled schoolwork.

25 (e) "School" means any public school, including a
26 charter school, in this state or any nonpublic school in this
27 state which is in session each school year for at least one
28 hundred eighty (180) school days, except that the "nonpublic"
29 school term shall be the number of days that each school shall
30 require for promotion from grade to grade.

31 (f) "Compulsory-school-age child" means a child who has
32 attained or will attain the age of six (6) years on or before
33 September 1 of the calendar year and who has not attained the age
34 of seventeen (17) years on or before September 1 of the calendar
35 year; and shall include any child who has attained or will attain
36 the age of five (5) years on or before September 1 and has
37 enrolled in a full-day public school kindergarten program.

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

40 (h) "Appropriate school official" means the
41 superintendent of the school district, or his designee, or, in the
42 case of a nonpublic school, the principal or the headmaster.



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

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

54 (a) When a compulsory-school-age child is physically,
55 mentally or emotionally incapable of attending school as
56 determined by the appropriate school official based upon
57 sufficient medical documentation.

58 (b) When a compulsory-school-age child is enrolled in
59 and pursuing a course of special education, remedial education or
60 education for handicapped or physically or mentally disadvantaged
61 children.

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

64 The parent, guardian or custodian of a compulsory-school-age
65 child described in this subsection, or the parent, guardian or
66 custodian of a compulsory-school-age child attending any charter
67 school or nonpublic school, or the appropriate school official for



68 any or all children attending a charter school or nonpublic school
69 shall complete a "certificate of enrollment" in order to
70 facilitate the administration of this section.

71 The form of the certificate of enrollment shall be prepared
72 by the Office of Compulsory School Attendance Enforcement of the
73 State Department of Education and shall be designed to obtain the
74 following information only:

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

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

79 (iii) A simple description of the type of
80 education the compulsory-school-age child is receiving and, if the
81 child is enrolled in a nonpublic school, the name and address of
82 the school; and

83 (iv) The signature of the parent, guardian or
84 custodian of the compulsory-school-age child or, for any or all
85 compulsory-school-age child or children attending a charter school
86 or nonpublic school, the signature of the appropriate school
87 official and the date signed.

88 The certificate of enrollment shall be returned to the school
89 attendance officer where the child resides on or before September
90 15 of each year. Any parent, guardian or custodian found by the
91 school attendance officer to be in noncompliance with this section
92 shall comply, after written notice of the noncompliance by the



93 school attendance officer, with this subsection within ten (10)
94 days after the notice or be in violation of this section.
95 However, in the event the child has been enrolled in a public
96 school within fifteen (15) calendar days after the first day of
97 the school year as required in subsection (6), the parent or
98 custodian may, at a later date, enroll the child in a legitimate
99 nonpublic school or legitimate home instruction program and send
100 the certificate of enrollment to the school attendance officer and
101 be in compliance with this subsection.

102 For the purposes of this subsection, a legitimate nonpublic
103 school or legitimate home instruction program shall be those not
104 operated or instituted for the purpose of avoiding or
105 circumventing the compulsory attendance law.

106 (4) An "unlawful absence" is an absence for an entire school
107 day or during part of a school day by a compulsory-school-age
108 child, which absence is not due to a valid excuse for temporary
109 nonattendance. For purposes of reporting absenteeism under
110 subsection (6) of this section, if a compulsory-school-age child
111 has an absence that is more than thirty-seven percent (37%) of the
112 instructional day, as fixed by the school board for the school at
113 which the compulsory-school-age child is enrolled, the child must
114 be considered absent the entire school day. Days missed from
115 school due to disciplinary suspension shall not be considered an
116 "excused" absence under this section. This subsection shall not
117 apply to children enrolled in a nonpublic school.



118 Each of the following shall constitute a valid excuse for
119 temporary nonattendance of a compulsory-school-age child enrolled
120 in a noncharter public school, provided satisfactory evidence of
121 the excuse is provided to the superintendent of the school
122 district, or his designee:

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

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

132 (c) An absence is excused when isolation of a
133 compulsory-school-age child is ordered by the county health
134 officer, by the State Board of Health or appropriate school
135 official.

136 (d) An absence is excused when it results from the
137 death or serious illness of a member of the immediate family of a
138 compulsory-school-age child. The immediate family members of a
139 compulsory-school-age child shall include children, spouse,
140 grandparents, parents, brothers and sisters, including
141 stepbrothers and stepsisters.



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

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

148 (g) An absence may be excused if the religion to which
149 the compulsory-school-age child or the child's parents adheres,
150 requires or suggests the observance of a religious event. The
151 approval of the absence is within the discretion of the
152 superintendent of the school district, or his designee, but
153 approval should be granted unless the religion's observance is of
154 such duration as to interfere with the education of the child.

155 * * *

156 (* * * h) An absence may be excused when it is
157 demonstrated to the satisfaction of the superintendent of the
158 school district, or his designee, that conditions are sufficient
159 to warrant the compulsory-school-age child's nonattendance.
160 However, no absences shall be excused by the school district
161 superintendent, or his designee, when any student suspensions or
162 expulsions circumvent the intent and spirit of the compulsory
163 attendance law.

164 (* * * i) An absence is excused when it results from
165 the attendance of a compulsory-school-age child participating in
166 official organized events sponsored by the 4-H or Future Farmers



167 of America (FFA). The excuse for the 4-H or FFA event must be
168 provided in writing to the appropriate school superintendent by
169 the Extension Agent or High School Agricultural Instructor/FFA
170 Advisor.

171 (* * *j) An absence is excused when it results from
172 the compulsory-school-age child officially being employed to serve
173 as a page at the State Capitol for the Mississippi House of
174 Representatives or Senate.

175 (5) Any parent, guardian or custodian of a
176 compulsory-school-age child subject to this section who refuses or
177 willfully fails to perform any of the duties imposed upon him or
178 her under this section or who intentionally falsifies any
179 information required to be contained in a certificate of
180 enrollment, shall be guilty of contributing to the neglect of a
181 child and, upon conviction, shall be punished in accordance with
182 Section 97-5-39.

183 Upon prosecution of a parent, guardian or custodian of a
184 compulsory-school-age child for violation of this section, the
185 presentation of evidence by the prosecutor that shows that the
186 child has not been enrolled in school within eighteen (18)
187 calendar days after the first day of the school year of the public
188 school which the child is eligible to attend, or that the child
189 has accumulated twelve (12) unlawful absences during the school
190 year at the public school in which the child has been enrolled,
191 shall establish a prima facie case that the child's parent,



192 guardian or custodian is responsible for the absences and has
193 refused or willfully failed to perform the duties imposed upon him
194 or her under this section. However, no proceedings under this
195 section shall be brought against a parent, guardian or custodian
196 of a compulsory-school-age child unless the school attendance
197 officer has contacted promptly the home of the child and has
198 provided written notice to the parent, guardian or custodian of
199 the requirement for the child's enrollment or attendance.

200 (6) If a compulsory-school-age child has not been enrolled
201 in a school within fifteen (15) calendar days after the first day
202 of the school year of the school which the child is eligible to
203 attend or the child has accumulated five (5) unlawful absences
204 during the school year of the public school in which the child is
205 enrolled, the school district superintendent, or his designee,
206 shall report, within two (2) school days or within five (5)
207 calendar days, whichever is less, the absences to the school
208 attendance officer. The State Department of Education shall
209 prescribe a uniform method for schools to utilize in reporting the
210 unlawful absences to the school attendance officer. The
211 superintendent, or his designee, also shall report any student
212 suspensions or student expulsions to the school attendance officer
213 when they occur.

214 (7) When a school attendance officer has made all attempts
215 to secure enrollment and/or attendance of a compulsory-school-age
216 child and is unable to effect the enrollment and/or attendance,



217 the attendance officer shall file a petition with the youth court
218 under Section 43-21-451 or shall file a petition in a court of
219 competent jurisdiction as it pertains to parent or child.
220 Sheriffs, deputy sheriffs and municipal law enforcement officers
221 shall be fully authorized to investigate all cases of
222 nonattendance and unlawful absences by compulsory-school-age
223 children, and shall be authorized to file a petition with the
224 youth court under Section 43-21-451 or file a petition or
225 information in the court of competent jurisdiction as it pertains
226 to parent or child for violation of this section. The youth court
227 shall expedite a hearing to make an appropriate adjudication and a
228 disposition to ensure compliance with the Compulsory School
229 Attendance Law, and may order the child to enroll or re-enroll in
230 school. The superintendent of the school district to which the
231 child is ordered may assign, in his discretion, the child to the
232 alternative school program of the school established pursuant to
233 Section 37-13-92.

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

238 (9) Notwithstanding any provision or implication herein to
239 the contrary, it is not the intention of this section to impair
240 the primary right and the obligation of the parent or parents, or
241 person or persons in loco parentis to a child, to choose the



242 proper education and training for such child, and nothing in this
243 section shall ever be construed to grant, by implication or
244 otherwise, to the State of Mississippi, any of its officers,
245 agencies or subdivisions any right or authority to control,
246 manage, supervise or make any suggestion as to the control,
247 management or supervision of any private or parochial school or
248 institution for the education or training of children, of any kind
249 whatsoever that is not a public school according to the laws of
250 this state; and this section shall never be construed so as to
251 grant, by implication or otherwise, any right or authority to any
252 state agency or other entity to control, manage, supervise,
253 provide for or affect the operation, management, program,
254 curriculum, admissions policy or discipline of any such school or
255 home instruction program.

256 **SECTION 2.** This act shall take effect and be in force from
257 and after July 1, 2018.

