

By: Representative Gibbs (72nd)

To: Education;  
Appropriations

HOUSE BILL NO. 983

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 AUGUST 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 \* \* \* August 1 of the calendar year and who has not  
37 attained the age of seventeen (17) years on or before \* \* \* August  
38 of the 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 \* \* \*  
99 August 15 of each year. Any parent, guardian or custodian found  
100 by the school attendance officer to be in noncompliance with this  
101 section shall comply, after written notice of the noncompliance by  
102 the school attendance officer, with this subsection within ten  
103 (10) 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, 2018.

