

By: Senator(s) Dawkins

To: Education;
Appropriations

SENATE BILL NO. 2300

1 AN ACT ENTITLED THE "ROSEMARY HAYES WILLIAMS KINDERGARTEN
2 ATTENDANCE ACT"; TO AMEND SECTION 37-13-91, MISSISSIPPI CODE OF
3 1972, TO PROVIDE THAT THE PROVISIONS OF THE MISSISSIPPI COMPULSORY
4 SCHOOL ATTENDANCE LAW ARE FULLY APPLICABLE TO KINDERGARTEN-AGE
5 CHILDREN; TO REQUIRE SUCH KINDERGARTEN-AGE CHILDREN TO ATTEND
6 LICENSED PUBLIC, PAROCHIAL OR NONPUBLIC SCHOOL KINDERGARTEN
7 PROGRAMS; AND FOR 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. Relative to
34 kindergarten-age children, "school" shall mean any licensed
35 public, parochial or nonpublic school kindergarten program which
36 promotes services that address the cognitive, social and emotional
37 needs of five-year-old children.

38 (f) Beginning with the 2019-2020 school year,
39 "compulsory-school-age child" means a child who has attained or
40 will attain the age of six (6) years on or before September 1 of
41 the calendar year and who has not attained the age of * * * five
42 (5) years on or before September 1 of the calendar year * * *.

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



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

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

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

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

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

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



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

76 The form of the certificate of enrollment shall be prepared
77 by the Office of Compulsory School Attendance Enforcement of the
78 State Department of Education and shall be designed to obtain the
79 following information only:

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

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

84 (iii) A simple description of the type of
85 education the compulsory-school-age child is receiving and, if the
86 child is enrolled in a nonpublic school, the name and address of
87 the school; and

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



93 The certificate of enrollment shall be returned to the school
94 attendance officer where the child resides on or before September
95 15 of each year. Any parent, guardian or custodian found by the
96 school attendance officer to be in noncompliance with this section
97 shall comply, after written notice of the noncompliance by the
98 school attendance officer, with this subsection within ten (10)
99 days after the notice or be in violation of this section.

100 However, in the event the child has been enrolled in a public
101 school within fifteen (15) calendar days after the first day of
102 the school year as required in subsection (6), the parent or
103 custodian may, at a later date, enroll the child in a legitimate
104 nonpublic school or legitimate home instruction program and send
105 the certificate of enrollment to the school attendance officer and
106 be in compliance with this subsection.

107 For the purposes of this subsection, a legitimate nonpublic
108 school or legitimate home instruction program shall be those not
109 operated or instituted for the purpose of avoiding or
110 circumventing the compulsory attendance law.

111 (4) An "unlawful absence" is an absence for an entire school
112 day or during part of a school day by a compulsory-school-age
113 child, which absence is not due to a valid excuse for temporary
114 nonattendance. For purposes of reporting absenteeism under
115 subsection (6) of this section, if a compulsory-school-age child
116 has an absence that is more than thirty-seven percent (37%) of the
117 instructional day, as fixed by the school board for the school at



which the compulsory-school-age child is enrolled, the child must be considered absent the entire school day. Days missed from school due to disciplinary suspension shall not be considered an "excused" absence under this section. This subsection shall not apply to children enrolled in a nonpublic school.

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

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

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

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

(d) An absence is excused when it results from the death or serious illness of a member of the immediate family of a



compulsory-school-age child. The immediate family members of a compulsory-school-age child shall include children, spouse, grandparents, parents, brothers and sisters, including stepbrothers and stepsisters.

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

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

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

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



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

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

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

(5) Any parent, guardian or custodian of a compulsory-school-age child subject to this section who refuses or willfully fails to perform any of the duties imposed upon him or her under this section or who intentionally falsifies any information required to be contained in a certificate of enrollment, shall be guilty of contributing to the neglect of a



child and, upon conviction, shall be punished in accordance with
Section 97-5-39.

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

(6) If a compulsory-school-age child has not been enrolled
in a school within fifteen (15) calendar days after the first day
of the school year of the school which the child is eligible to
attend or the child has accumulated five (5) unlawful absences
during the school year of the public school in which the child is
enrolled, the school district superintendent, or his designee,



shall report, within two (2) school days or within five (5) calendar days, whichever is less, the absences to the school attendance officer. The State Department of Education shall prescribe a uniform method for schools to utilize in reporting the unlawful absences to the school attendance officer. The superintendent, or his designee, also shall report any student suspensions or student expulsions to the school attendance officer when they occur.

(7) When a school attendance officer has made all attempts to secure enrollment and/or attendance of a compulsory-school-age child and is unable to effect the enrollment and/or attendance, the attendance officer shall file a petition with the youth court under Section 43-21-451 or shall file a petition in a court of competent jurisdiction as it pertains to parent or child. Sheriffs, deputy sheriffs and municipal law enforcement officers shall be fully authorized to investigate all cases of nonattendance and unlawful absences by compulsory-school-age children, and shall be authorized to file a petition with the youth court under Section 43-21-451 or file a petition or information in the court of competent jurisdiction as it pertains to parent or child for violation of this section. The youth court shall expedite a hearing to make an appropriate adjudication and a disposition to ensure compliance with the Compulsory School Attendance Law, and may order the child to enroll or re-enroll in school. The superintendent of the school district to which the



child is ordered may assign, in his discretion, the child to the alternative school program of the school established pursuant to Section 37-13-92.

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

(9) Notwithstanding any provision or implication herein to the contrary, it is not the intention of this section to impair the primary right and the obligation of the parent or parents, or person or persons in loco parentis to a child, to choose the proper education and training for such child, and nothing in this section shall ever be construed to grant, by implication or otherwise, to the State of Mississippi, any of its officers, agencies or subdivisions any right or authority to control, manage, supervise or make any suggestion as to the control, management or supervision of any private or parochial school or institution for the education or training of children, of any kind whatsoever that is not a public school according to the laws of this state; and this section shall never be construed so as to grant, by implication or otherwise, any right or authority to any state agency or other entity to control, manage, supervise, provide for or affect the operation, management, program, curriculum, admissions policy or discipline of any such school or home instruction program.



267 **SECTION 2.** This act shall be entitled and may be cited as
268 the "RoseMary Hayes Williams Kindergarten Attendance Act."

269 **SECTION 3.** This act shall take effect and be in force from
270 and after July 1, 2019.

