

By: Senator(s) Jordan

To: Education;  
Appropriations

SENATE BILL NO. 2022

1 AN ACT TO AMEND SECTIONS 37-13-91 AND 37-15-9, MISSISSIPPI  
2 CODE OF 1972, TO PROVIDE THAT THE PROVISIONS OF THE MISSISSIPPI  
3 COMPULSORY SCHOOL ATTENDANCE LAW ARE FULLY APPLICABLE TO  
4 KINDERGARTEN-AGE CHILDREN; TO REQUIRE SUCH KINDERGARTEN-AGE  
5 CHILDREN TO ATTEND LICENSED PUBLIC, PAROCHIAL, NONPUBLIC OR  
6 HOMESCHOOL KINDERGARTEN PROGRAMS; AND FOR RELATED PURPOSES.

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

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

10 37-13-91. (1) This section shall be referred to as the  
11 "Mississippi Compulsory School Attendance Law."

12 (2) The following terms as used in this section are defined  
13 as follows:

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

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



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

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

27 (e) "School" means any public school, including a  
28 charter school, in this state or any nonpublic school in this  
29 state which is in session each school year for at least one  
30 hundred eighty (180) school days, except that the "nonpublic"  
31 school term shall be the number of days that each school shall  
32 require for promotion from grade to grade. Relative to  
33 kindergarten-age children, school shall mean any licensed public,  
34 parochial or nonpublic school kindergarten program or legitimate  
35 homeschool kindergarten program which promotes services that  
36 address the cognitive, social and emotional needs of five-year-old  
37 children.

38 (f) "Compulsory-school-age child" means a child who has  
39 attained or will attain the age of \* \* \* five (5) years on or  
40 before \* \* \* August 1 of the calendar year and who has not  
41 attained the age of seventeen (17) years on or before \* \* \* August  
42 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



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

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

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

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

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

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



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

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

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

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

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



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

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

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

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





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

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

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



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

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



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

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

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



267           **SECTION 2.** Section 37-15-9, Mississippi Code of 1972, is  
268 amended as follows:

269           37-15-9. (1) Except as provided in subsection (2) and  
270 subject to the provisions of subsection (3) of this section, no  
271 child shall be enrolled or admitted to any kindergarten which is a  
272 part of a public school during any school year unless such child  
273 will reach his fifth birthday on or before \* \* \* August 1 of said  
274 school year, and no child shall be enrolled or admitted to the  
275 first grade in any public school during any school year unless  
276 such child will reach his sixth birthday on or before \* \* \* August  
277 1 of said school year. No pupil shall be permanently enrolled in  
278 a public school in the State of Mississippi who formerly was  
279 enrolled in another public or private school within the state  
280 until the cumulative record of the pupil shall have been received  
281 from the school from which he transferred. Should such record  
282 have become lost or destroyed, then it shall be the duty of the  
283 superintendent or principal of the school where the pupil last  
284 attended school to initiate a new record.

285           (2) Subject to the provisions of subsection (3) of this  
286 section, any child who transfers from an out-of-state public or  
287 private school in which that state's law provides for a  
288 first-grade or kindergarten enrollment date subsequent to \* \* \*  
289 August 1, shall be allowed to enroll in the public schools of  
290 Mississippi, at the same grade level as their prior out-of-state  
291 enrollment, if:



292 (a) The parent, legal guardian or custodian of such  
293 child was a legal resident of the state from which the child is  
294 transferring;

295 (b) The out-of-state school from which the child is  
296 transferring is duly accredited by that state's appropriate  
297 accrediting authority;

298 (c) Such child was legally enrolled in a public or  
299 private school for a minimum of four (4) weeks in the previous  
300 state; and

301 (d) The superintendent of schools in the applicable  
302 Mississippi school district or the principal of a charter school,  
303 as the case may be, has determined that the child was making  
304 satisfactory educational progress in the previous state.

305 (3) When any child applies for admission or enrollment in  
306 any public school in the state, the parent, guardian or child, in  
307 the absence of an accompanying parent or guardian, shall indicate  
308 on the school registration form if the enrolling child has been  
309 expelled from any public or private school or is currently a party  
310 to an expulsion proceeding. If it is determined from the child's  
311 cumulative record or application for admission or enrollment that  
312 the child has been expelled, the school district or charter school  
313 may deny the student admission and enrollment until the  
314 superintendent of the school, or his designee, or principal of the  
315 charter school, as the case may be, has reviewed the child's  
316 cumulative record and determined that the child has participated



317 in successful rehabilitative efforts including, but not limited  
318 to, progress in an alternative school or similar program. If the  
319 child is a party to an expulsion proceeding, the child may be  
320 admitted to a public school pending final disposition of the  
321 expulsion proceeding. If the expulsion proceeding results in the  
322 expulsion of the child, the public school may revoke such  
323 admission to school. If the child was expelled or is a party to  
324 an expulsion proceeding for an act involving violence, weapons,  
325 alcohol, illegal drugs or other activity that may result in  
326 expulsion, the school district or charter school shall not be  
327 required to grant admission or enrollment to the child before one  
328 (1) calendar year after the date of the expulsion.

329       **SECTION 3.** This act shall take effect and be in force from  
330 and after July 1, 2020.

