

By: Representative Hines

To: Education

HOUSE BILL NO. 35

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; AND FOR RELATED
6 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 * * * the
30 minimum number of school days in a scholastic year established
31 under Section 37-13-63, except that the "nonpublic" school term
32 shall be the number of days that each school shall require for
33 promotion from grade to grade.

34 (f) "Compulsory-school-age child" means a child who has
35 attained or will attain the age of six (6) years on or before
36 September 1 of the calendar year and who has not attained the age
37 of * * * eighteen (18) years on or before September 1 of the
38 calendar year; and shall include any child who has attained or
39 will attain the age of five (5) years on or before September 1 and
40 has enrolled in a full-day public school kindergarten program.
41 Any child who graduates high school before his or her eighteenth
42 birthday after receiving the necessary credits through a program
43 of dual enrollment or completing as passing the required
44 examinations for gifted, advanced placement, International



45 Baccalaureate, GED or high school equivalency programs shall not
46 be included in the definition of a "compulsory-school-age child."
47 This paragraph (f) shall only apply to students who have attained
48 the age of eighteen (18) years after the start of the school year
49 when the student signs and acknowledges a written agreement to
50 continue in attendance in the current school or school district.
51 The signed agreement cannot be entered into by the student until
52 he or she reaches the constitutional age of majority which allows
53 an individual to legally obligate himself or herself through a
54 binding agreement, which, for purposes of this paragraph, shall
55 not occur until on or after the student's eighteenth birthday.

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

58 (h) "Appropriate school official" means the
59 superintendent of the school district, or his designee, or, in the
60 case of a nonpublic school, the principal or the headmaster.

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

67 (3) A parent, guardian or custodian of a
68 compulsory-school-age child in this state shall cause the child to
69 enroll in and attend a public school or legitimate nonpublic



70 school for the period of time that the child is of compulsory
71 school age, except under the following circumstances:

72 (a) When a compulsory-school-age child is physically,
73 mentally or emotionally incapable of attending school as
74 determined by the appropriate school official based upon
75 sufficient medical documentation.

76 (b) When a compulsory-school-age child is enrolled in
77 and pursuing a course of special education, remedial education or
78 education for handicapped or physically or mentally disadvantaged
79 children.

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

82 The parent, guardian or custodian of a compulsory-school-age
83 child described in this subsection, or the parent, guardian or
84 custodian of a compulsory-school-age child attending any charter
85 school or nonpublic school, or the appropriate school official for
86 any or all children attending a charter school or nonpublic school
87 shall complete a "certificate of enrollment" in order to
88 facilitate the administration of this section.

89 The form of the certificate of enrollment shall be prepared
90 by the Office of Compulsory School Attendance Enforcement of the
91 State Department of Education and shall be designed to obtain the
92 following information only:

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



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

97 (iii) A simple description of the type of
98 education the compulsory-school-age child is receiving and, if the
99 child is enrolled in a nonpublic school, the name and address of
100 the school; and

101 (iv) The signature of the parent, guardian or
102 custodian of the compulsory-school-age child or, for any or all
103 compulsory-school-age child or children attending a charter school
104 or nonpublic school, the signature of the appropriate school
105 official and the date signed.

106 The certificate of enrollment shall be returned to the school
107 attendance officer where the child resides on or before September
108 15 of each year. Any parent, guardian or custodian found by the
109 school attendance officer to be in noncompliance with this section
110 shall comply, after written notice of the noncompliance by the
111 school attendance officer, with this subsection within ten (10)
112 days after the notice or be in violation of this section.

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



120 For the purposes of this subsection, a legitimate nonpublic
121 school or legitimate home instruction program shall be those not
122 operated or instituted for the purpose of avoiding or
123 circumventing the compulsory attendance law.

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

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

141 (a) An absence is excused when the absence results from
142 the compulsory-school-age child's attendance at an authorized
143 school activity with the prior approval of the superintendent of
144 the school district, or his designee. These activities may



145 include field trips, athletic contests, student conventions,
146 musical festivals and any similar activity.

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

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

154 (d) An absence is excused when it results from the
155 death or serious illness of a member of the immediate family of a
156 compulsory-school-age child. The immediate family members of a
157 compulsory-school-age child shall include children, spouse,
158 grandparents, parents, brothers and sisters, including
159 stepbrothers and stepsisters.

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

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

166 (g) An absence may be excused if the religion to which
167 the compulsory-school-age child or the child's parents adheres,
168 requires or suggests the observance of a religious event. The
169 approval of the absence is within the discretion of the



170 superintendent of the school district, or his designee, but
171 approval should be granted unless the religion's observance is of
172 such duration as to interfere with the education of the child.

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

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

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



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

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

207 Upon prosecution of a parent, guardian or custodian of a
208 compulsory-school-age child for violation of this section, the
209 presentation of evidence by the prosecutor that shows that the
210 child has not been enrolled in school within eighteen (18)
211 calendar days after the first day of the school year of the public
212 school which the child is eligible to attend, or that the child
213 has accumulated twelve (12) unlawful absences during the school
214 year at the public school in which the child has been enrolled,
215 shall establish a prima facie case that the child's parent,
216 guardian or custodian is responsible for the absences and has
217 refused or willfully failed to perform the duties imposed upon him
218 or her under this section. However, no proceedings under this
219 section shall be brought against a parent, guardian or custodian



220 of a compulsory-school-age child unless the school attendance
221 officer has contacted promptly the home of the child and has
222 provided written notice to the parent, guardian or custodian of
223 the requirement for the child's enrollment or attendance.

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

238 (7) When a school attendance officer has made all attempts
239 to secure enrollment and/or attendance of a compulsory-school-age
240 child and is unable to effect the enrollment and/or attendance,
241 the attendance officer shall file a petition with the youth court
242 under Section 43-21-451 or shall file a petition in a court of
243 competent jurisdiction as it pertains to parent or child.

244 Sheriffs, deputy sheriffs and municipal law enforcement officers



245 shall be fully authorized to investigate all cases of
246 nonattendance and unlawful absences by compulsory-school-age
247 children, and shall be authorized to file a petition with the
248 youth court under Section 43-21-451 or file a petition or
249 information in the court of competent jurisdiction as it pertains
250 to parent or child for violation of this section. The youth court
251 shall expedite a hearing to make an appropriate adjudication and a
252 disposition to ensure compliance with the Compulsory School
253 Attendance Law, and may order the child to enroll or re-enroll in
254 school. The superintendent of the school district to which the
255 child is ordered may assign, in his discretion, the child to the
256 alternative school program of the school established pursuant to
257 Section 37-13-92.

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

262 (9) Notwithstanding any provision or implication herein to
263 the contrary, it is not the intention of this section to impair
264 the primary right and the obligation of the parent or parents, or
265 person or persons in loco parentis to a child, to choose the
266 proper education and training for such child, and nothing in this
267 section shall ever be construed to grant, by implication or
268 otherwise, to the State of Mississippi, any of its officers,
269 agencies or subdivisions any right or authority to control,



270 manage, supervise or make any suggestion as to the control,
271 management or supervision of any private or parochial school or
272 institution for the education or training of children, of any kind
273 whatsoever that is not a public school according to the laws of
274 this state; and this section shall never be construed so as to
275 grant, by implication or otherwise, any right or authority to any
276 state agency or other entity to control, manage, supervise,
277 provide for or affect the operation, management, program,
278 curriculum, admissions policy or discipline of any such school or
279 home instruction program.

280 **SECTION 2.** This act shall take effect and be in force from
281 and after July 1, 2021.

