

By: Representative Bennett

To: Education

HOUSE BILL NO. 316

1 AN ACT TO AMEND SECTION 37-13-91, MISSISSIPPI CODE OF 1972,
 2 TO PROVIDE THAT THE PROVISIONS OF THE MISSISSIPPI COMPULSORY
 3 SCHOOL ATTENDANCE LAW ARE FULLY APPLICABLE TO KINDERGARTEN-AGE
 4 CHILDREN; TO REQUIRE SUCH KINDERGARTEN-AGE CHILDREN TO ATTEND
 5 LICENSED PUBLIC, PAROCHIAL, NONPUBLIC OR HOMESCHOOL KINDERGARTEN
 6 PROGRAMS; TO REVISE THE DEFINITION OF THE TERM
 7 "COMPULSORY-SCHOOL-AGE CHILD" TO INCLUDE CHILDREN WHO ATTAIN THE
 8 AGE OF FIVE YEARS ON OR BEFORE SEPTEMBER 1 UNDER THE COMPULSORY
 9 SCHOOL ATTENDANCE LAW; TO AMEND SECTIONS 37-7-339 AND 37-41-3,
 10 MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE PRECEDING
 11 PROVISIONS; AND FOR RELATED PURPOSES.

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

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

15 37-13-91. (1) This section shall be referred to as the
 16 "Mississippi Compulsory School Attendance Law."

17 (2) The following terms as used in this section are defined
 18 as follows:

19 (a) "Parent" means the father or mother to whom a child
 20 has been born, or the father or mother by whom a child has been
 21 legally adopted.



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

25 (c) "Custodian" means any person having the present
26 care or custody of a child, other than a parent or guardian of the
27 child.

28 (d) "School day" means not less than five and one-half
29 (5-1/2) and not more than eight (8) hours of actual teaching in
30 which both teachers and pupils are in regular attendance for
31 scheduled schoolwork.

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

43 (f) "Compulsory-school-age child" means a child who has
44 attained or will attain the age of * * * five (5) years on or
45 before September 1 of the calendar year and who has not attained



46 the age of seventeen (17) years on or before September 1 of the
47 calendar year * * *.

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

50 (h) "Appropriate school official" means the
51 superintendent of the school district, or his designee, or, in the
52 case of a nonpublic school, the principal or the headmaster.

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

59 (3) A parent, guardian or custodian of a
60 compulsory-school-age child in this state shall cause the child to
61 enroll in and attend a public school or legitimate nonpublic
62 school for the period of time that the child is of compulsory
63 school age, except under the following circumstances:

64 (a) When a compulsory-school-age child is physically,
65 mentally or emotionally incapable of attending school as
66 determined by the appropriate school official based upon
67 sufficient medical documentation.

68 (b) When a compulsory-school-age child is enrolled in
69 and pursuing a course of special education, remedial education or



70 education for handicapped or physically or mentally disadvantaged
71 children.

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

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

81 The form of the certificate of enrollment shall be prepared
82 by the Office of Compulsory School Attendance Enforcement of the
83 State Department of Education and shall be designed to obtain the
84 following information only:

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

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

89 (iii) A simple description of the type of
90 education the compulsory-school-age child is receiving and, if the
91 child is enrolled in a nonpublic school, the name and address of
92 the school; and

93 (iv) The signature of the parent, guardian or
94 custodian of the compulsory-school-age child or, for any or all



95 compulsory-school-age child or children attending a charter school
96 or nonpublic school, the signature of the appropriate school
97 official and the date signed.

98 The certificate of enrollment shall be returned to the school
99 attendance officer where the child resides on or before September
100 15 of each year. Any parent, guardian or custodian found by the
101 school attendance officer to be in noncompliance with this section
102 shall comply, after written notice of the noncompliance by the
103 school attendance officer, with this subsection within ten (10)
104 days after the notice or be in violation of this section.

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

112 For the purposes of this subsection, a legitimate nonpublic
113 school or legitimate home instruction program shall be those not
114 operated or instituted for the purpose of avoiding or
115 circumventing the compulsory attendance law.

116 (4) An "unlawful absence" is an absence for an entire school
117 day or during part of a school day by a compulsory-school-age
118 child, which absence is not due to a valid excuse for temporary
119 nonattendance. For purposes of reporting absenteeism under



120 subsection (6) of this section, if a compulsory-school-age child
121 has an absence that is more than thirty-seven percent (37%) of the
122 instructional day, as fixed by the school board for the school at
123 which the compulsory-school-age child is enrolled, the child must
124 be considered absent the entire school day. Days missed from
125 school due to disciplinary suspension shall not be considered an
126 "excused" absence under this section. This subsection shall not
127 apply to children enrolled in a nonpublic school.

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

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

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

142 (c) An absence is excused when isolation of a
143 compulsory-school-age child is ordered by the county health



144 officer, by the State Board of Health or appropriate school
145 official.

146 (d) An absence is excused when it results from the
147 death or serious illness of a member of the immediate family of a
148 compulsory-school-age child. The immediate family members of a
149 compulsory-school-age child shall include children, spouse,
150 grandparents, parents, brothers and sisters, including
151 stepbrothers and stepsisters.

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

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

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

165 (h) An absence may be excused when it is demonstrated
166 to the satisfaction of the superintendent of the school district,
167 or his designee, that the purpose of the absence is to take
168 advantage of a valid educational opportunity such as travel,



169 including vacations or other family travel. Approval of the
170 absence must be gained from the superintendent of the school
171 district, or his designee, before the absence, but the approval
172 shall not be unreasonably withheld.

173 (i) 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 conditions are sufficient to warrant the
176 compulsory-school-age child's nonattendance. However, no absences
177 shall be excused by the school district superintendent, or his
178 designee, when any student suspensions or expulsions circumvent
179 the intent and spirit of the compulsory attendance law.

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

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

191 (5) Any parent, guardian or custodian of a
192 compulsory-school-age child subject to this section who refuses or
193 willfully fails to perform any of the duties imposed upon him or



194 her under this section or who intentionally falsifies any
195 information required to be contained in a certificate of
196 enrollment, shall be guilty of contributing to the neglect of a
197 child and, upon conviction, shall be punished in accordance with
198 Section 97-5-39.

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

216 (6) If a compulsory-school-age child has not been enrolled
217 in a school within fifteen (15) calendar days after the first day
218 of the school year of the school which the child is eligible to



219 attend or the child has accumulated five (5) unlawful absences
220 during the school year of the public school in which the child is
221 enrolled, the school district superintendent, or his designee,
222 shall report, within two (2) school days or within five (5)
223 calendar days, whichever is less, the absences to the school
224 attendance officer. The State Department of Education shall
225 prescribe a uniform method for schools to utilize in reporting the
226 unlawful absences to the school attendance officer. The
227 superintendent, or his designee, also shall report any student
228 suspensions or student expulsions to the school attendance officer
229 when they occur.

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



244 disposition to ensure compliance with the Compulsory School
245 Attendance Law, and may order the child to enroll or re-enroll in
246 school. The superintendent of the school district to which the
247 child is ordered may assign, in his discretion, the child to the
248 alternative school program of the school established pursuant to
249 Section 37-13-92.

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

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



269 provide for or affect the operation, management, program,
270 curriculum, admissions policy or discipline of any such school or
271 home instruction program.

272 **SECTION 2.** Section 37-7-339, Mississippi Code of 1972, is
273 amended as follows:

274 37-7-339. (1) The school board of any local school
275 district, in its discretion, may provide extended day and extended
276 school year programs for * * * compulsory-school-age
277 students, * * * and may expend any funds for these purposes which
278 are available from sources other than the adequate education
279 program. It is not the intent of the Legislature, in enacting
280 this section, to interfere with the Headstart program. School
281 boards, in their discretion, may charge participants a reasonable
282 fee for such programs.

283 (2) The school board of any school district may adopt any
284 orders, policies, rules or regulations with respect to instruction
285 within that school district for which no specific provision has
286 been made by general law and which are not inconsistent with the
287 Mississippi Constitution of 1890, the Mississippi Code of 1972, or
288 any order, policy, rule or regulation of the State Board of
289 Education; those school boards also may alter, modify and repeal
290 any orders, policies, rules or regulations enacted under this
291 subsection. Any such program pertaining to reading must further
292 the goal that Mississippi students will demonstrate a growing



293 proficiency in reading and will reach or exceed the national
294 average within the next decade.

295 **SECTION 3.** Section 37-41-3, Mississippi Code of 1972, is
296 amended as follows:

297 37-41-3. * * * (1) Compulsory-school-age children in actual
298 attendance in the public schools who live a distance of one (1)
299 mile or more by the nearest traveled road from the school to which
300 they are assigned by the school district in which they are
301 enrolled shall be entitled to transportation within the meaning of
302 this chapter. Nothing contained in this section shall be
303 construed to bar any child from such transportation where he or
304 she lives less than one (1) mile and is on the regular route of
305 travel of a school bus and space is available in such bus for such
306 transportation. No state funds shall be paid for the
307 transportation of children living within one (1) mile of the
308 school, except as otherwise provided in this chapter, and such
309 children shall not be included in transportation reports. In the
310 development of route plans, economy shall be a prime
311 consideration. There shall be no duplication of routes except in
312 circumstances where it is totally unavoidable. The State
313 Department of Education shall have authority to investigate school
314 bus routing when there is reason to believe the provisions of this
315 statute are being violated. The State Board of Education shall
316 have authority to withhold transportation funds when school
317 districts fail to correct unnecessary route duplication. Provided



318 further, that all school districts are hereby authorized to lease
319 or contract with any public or private individual, partnership,
320 corporation, association, agency or other organization for the
321 implementation of transportation of pupils as provided for in this
322 section.

323 (2) The school boards may provide transportation to
324 such * * * children with disabilities as may be designated by such
325 boards, when the failure to do so would result in undue hardship,
326 even though the children are not otherwise entitled to
327 transportation under the provisions of this chapter. The State
328 Department of Education shall require all school districts * * *
329 to equip school buses with properly designed seat belts to
330 protect * * * children with disabilities, and school districts are
331 authorized to expend funds therefor from * * * sources other than
332 adequate education program funds.

333 (3) Where space is available, students attending junior
334 colleges shall be allowed transportation on established routes in
335 district-owned buses. However, no additional funds shall be
336 allocated or expended for such purposes, and such persons shall
337 not be included in transportation reports.

338 (4) Children enrolled in special or alternative programs
339 approved by school boards may be provided transportation even
340 though such children are not otherwise entitled to transportation
341 under the provisions of this chapter. No additional funds shall



342 be allocated or expended for such purpose, and such children shall
343 not be included in transportation reports.

344 **SECTION 4.** This act shall take effect and be in force from
345 and after July 1, 2021.

