

By: Representative Bennett

To: Education

HOUSE BILL NO. 173

1 AN ACT TO AMEND SECTION 37-13-89, MISSISSIPPI CODE OF 1972,
2 TO REQUIRE SCHOOL ATTENDANCE OFFICERS TO MAINTAIN REGULAR OFFICE
3 HOURS, BEGINNING WITH THE DATE OF THEIR RETURN FROM DESIGNATED
4 LEAVE UNTIL THE LAST DAY PRIOR TO THE ATTENDANCE OFFICER'S
5 DESIGNATED LEAVE IS SCHEDULED TO BEGIN; AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 37-13-89, Mississippi Code of 1972, is
8 amended as follows:

9 37-13-89. (1) In each school district within the state,
10 there shall be employed the number of school attendance officers
11 determined by the Office of Compulsory School Attendance
12 Enforcement to be necessary to adequately enforce the provisions
13 of the Mississippi Compulsory School Attendance Law; however, this
14 number shall not exceed one hundred fifty-three (153) school
15 attendance officers at any time. From and after July 1, 1998, all
16 school attendance officers employed pursuant to this section shall
17 be employees of the State Department of Education. The State
18 Department of Education shall employ all persons employed as
19 school attendance officers by district attorneys before July 1,



20 1998, and shall assign them to school attendance responsibilities
21 in the school district in which they were employed before July 1,
22 1998. The first twelve (12) months of employment for each school
23 attendance officer shall be the probationary period of state
24 service.

25 (2) (a) The State Department of Education shall obtain
26 current criminal records background checks and current child abuse
27 registry checks on all persons applying for the position of school
28 attendance officer after July 2, 2002. The criminal records
29 information and registry checks must be kept on file for any new
30 hires. In order to determine an applicant's suitability for
31 employment as a school attendance officer, the applicant must be
32 fingerprinted. If no disqualifying record is identified at the
33 state level, the Department of Public Safety shall forward the
34 fingerprints to the Federal Bureau of Investigation (FBI) for a
35 national criminal history record check. The applicant shall pay
36 the fee, not to exceed Fifty Dollars (\$50.00), for the
37 fingerprinting and criminal records background check; however, the
38 State Department of Education, in its discretion, may pay the fee
39 for the fingerprinting and criminal records background check on
40 behalf of any applicant. Under no circumstances may a member of
41 the State Board of Education, employee of the State Department of
42 Education or any person other than the subject of the criminal
43 records background check disseminate information received through



44 any such checks except insofar as required to fulfill the purposes
45 of this subsection.

46 (b) If the fingerprinting or criminal records check
47 discloses a felony conviction, guilty plea or plea of nolo
48 contendere to a felony of possession or sale of drugs, murder,
49 manslaughter, armed robbery, rape, sexual battery, sex offense
50 listed in Section 45-33-23(h), child abuse, arson, grand larceny,
51 burglary, gratification of lust or aggravated assault which has
52 not been reversed on appeal or for which a pardon has not been
53 granted, the applicant is not eligible to be employed as a school
54 attendance officer. Any employment of an applicant pending the
55 results of the fingerprinting and criminal records check is
56 voidable if the new hire receives a disqualifying criminal records
57 check. However, the State Board of Education, in its discretion,
58 may allow an applicant aggrieved by an employment decision under
59 this subsection to appear before the board, or before a hearing
60 officer designated for that purpose, to show mitigating
61 circumstances that may exist and allow the new hire to be employed
62 as a school attendance officer. The State Board of Education may
63 grant waivers for mitigating circumstances, which may include, but
64 are not necessarily limited to: (i) age at which the crime was
65 committed; (ii) circumstances surrounding the crime; (iii) length
66 of time since the conviction and criminal history since the
67 conviction; (iv) work history; (v) current employment and
68 character references; and (vi) other evidence demonstrating the



69 ability of the person to perform the responsibilities of a school
70 attendance officer competently and that the person does not pose a
71 threat to the health or safety of children.

72 (c) A member of the State Board of Education or
73 employee of the State Department of Education may not be held
74 liable in any employment discrimination suit in which an
75 allegation of discrimination is made regarding an employment
76 decision authorized under this section.

77 (3) Each school attendance officer shall possess a college
78 degree with a major in a behavioral science or a related field or
79 shall have no less than three (3) years combined actual experience
80 as a school teacher, school administrator, law enforcement officer
81 possessing such degree, and/or social worker; however, these
82 requirements shall not apply to persons employed as school
83 attendance officers before January 1, 1987. School attendance
84 officers also shall satisfy any additional requirements that may
85 be established by the State Personnel Board for the position of
86 school attendance officer.

87 (4) It shall be the duty of each school attendance officer
88 to:

89 (a) Cooperate with any public agency to locate and
90 identify all compulsory-school-age children who are not attending
91 school;

92 (b) Cooperate with all courts of competent
93 jurisdiction;



94 (c) Investigate all cases of nonattendance and unlawful
95 absences by compulsory-school-age children not enrolled in a
96 nonpublic school;

97 (d) Provide appropriate counseling to encourage all
98 school-age children to attend school until they have completed
99 high school;

100 (e) Attempt to secure the provision of social or
101 welfare services that may be required to enable any child to
102 attend school;

103 (f) Contact the home or place of residence of a
104 compulsory-school-age child and any other place in which the
105 officer is likely to find any compulsory-school-age child when the
106 child is absent from school during school hours without a valid
107 written excuse from school officials, and when the child is found,
108 the officer shall notify the parents and school officials as to
109 where the child was physically located;

110 (g) Contact promptly the home of each
111 compulsory-school-age child in the school district within the
112 officer's jurisdiction who is not enrolled in school or is not in
113 attendance at public school and is without a valid written excuse
114 from school officials; if no valid reason is found for the
115 nonenrollment or absence from the school, the school attendance
116 officer shall give written notice to the parent, guardian or
117 custodian of the requirement for the child's enrollment or
118 attendance;



119 (h) Collect and maintain information concerning
120 absenteeism, dropouts and other attendance-related problems, as
121 may be required by law or the Office of Compulsory School
122 Attendance Enforcement; and

123 (i) Perform all other duties relating to compulsory
124 school attendance established by the State Department of Education
125 or district school attendance supervisor, or both.

126 (5) While engaged in the performance of his duties, each
127 school attendance officer shall carry on his person a badge
128 identifying him as a school attendance officer under the Office of
129 Compulsory School Attendance Enforcement of the State Department
130 of Education and an identification card designed by the State
131 Superintendent of Public Education and issued by the school
132 attendance officer supervisor. Neither the badge nor the
133 identification card shall bear the name of any elected public
134 official.

135 (6) The State Personnel Board shall develop a salary scale
136 for school attendance officers as part of the variable
137 compensation plan. The various pay ranges of the salary scale
138 shall be based upon factors including, but not limited to,
139 education, professional certification and licensure, and number of
140 years of experience. School attendance officers shall be paid in
141 accordance with this salary scale. * * *

142 * * *



143 (7) (a) Each school attendance officer employed by a
144 district attorney on June 30, 1998, who became an employee of the
145 State Department of Education on July 1, 1998, shall be awarded
146 credit for personal leave and major medical leave for his
147 continuous service as a school attendance officer under the
148 district attorney, and if applicable, the youth or family court or
149 a state agency. The credit for personal leave shall be in an
150 amount equal to one-third (1/3) of the maximum personal leave the
151 school attendance officer could have accumulated had he been
152 credited with such leave under Section 25-3-93 during his
153 employment with the district attorney, and if applicable, the
154 youth or family court or a state agency. The credit for major
155 medical leave shall be in an amount equal to one-half (1/2) of the
156 maximum major medical leave the school attendance officer could
157 have accumulated had he been credited with such leave under
158 Section 25-3-95 during his employment with the district attorney,
159 and if applicable, the youth or family court or a state agency.
160 However, if a district attorney who employed a school attendance
161 officer on June 30, 1998, certifies, in writing, to the State
162 Department of Education that the school attendance officer had
163 accumulated, pursuant to a personal leave policy or major medical
164 leave policy lawfully adopted by the district attorney, a number
165 of days of unused personal leave or major medical leave, or both,
166 which is greater than the number of days to which the school
167 attendance officer is entitled under this paragraph, the State



168 Department of Education shall authorize the school attendance
169 officer to retain the actual unused personal leave or major
170 medical leave, or both, certified by the district attorney,
171 subject to the maximum amount of personal leave and major medical
172 leave the school attendance officer could have accumulated had he
173 been credited with such leave under Sections 25-3-93 and 25-3-95.

174 (b) For the purpose of determining the accrual rate for
175 personal leave under Section 25-3-93 and major medical leave under
176 Section 25-3-95, the State Department of Education shall give
177 consideration to all continuous service rendered by a school
178 attendance officer before July 1, 1998, in addition to the service
179 rendered by the school attendance officer as an employee of the
180 department.

181 (c) In order for a school attendance officer to be
182 awarded credit for personal leave and major medical leave or to
183 retain the actual unused personal leave and major medical leave
184 accumulated by him before July 1, 1998, the district attorney who
185 employed the school attendance officer must certify, in writing,
186 to the State Department of Education the hire date of the school
187 attendance officer. For each school attendance officer employed
188 by the youth or family court or a state agency before being
189 designated an employee of the district attorney who has not had a
190 break in continuous service, the hire date shall be the date that
191 the school attendance officer was hired by the youth or family
192 court or state agency. The department shall prescribe the date by



193 which the certification must be received by the department and
194 shall provide written notice to all district attorneys of the
195 certification requirement and the date by which the certification
196 must be received.

197 (8) (a) * * * During the school term, on those days that
198 teachers in all of the school districts served by a school
199 attendance officer are not required to report to work, the school
200 attendance officer also shall not be required to report to work.
201 (For purposes of this subsection, a school district's school term
202 is that period of time identified as the school term in contracts
203 entered into by the district with licensed personnel.) A school
204 attendance officer shall be required to report to work on any day
205 recognized as an official state holiday if teachers in any school
206 district served by that school attendance officer are required to
207 report to work on that day, regardless of the school attendance
208 officer's status as an employee of the State Department of
209 Education, and compensatory leave may not be awarded to the school
210 attendance officer for working during that day. However, a school
211 attendance officer may be allowed by the school attendance
212 officer's supervisor to use earned leave on such days.

213 (b) School attendance officers shall maintain regular
214 office hours, from 8:00 a.m. to 5:00 p.m., beginning with the date
215 of their return from designated leave, during the school term most
216 representative of all the school districts served by that school
217 attendance officer, and until the last day prior to the attendance



218 officer's designated leave is scheduled to begin. The State
219 Department of Education annually shall designate a period of six
220 (6) consecutive weeks in the summer between school years during
221 which school attendance officers shall not be required to report
222 to work. A school attendance officer who elects to work at any
223 time during that period may not be awarded compensatory leave for
224 such work and may not opt to be absent from work at any time other
225 than during the six (6) weeks designated by the department unless
226 the school attendance officer uses personal leave or major medical
227 leave accrued under Section 25-3-93 or 25-3-95 for such absence.
228 School attendance officers are expected to regularly and routinely
229 check their State Department of Education assigned email and
230 state-issued cellular phone to remain abreast of important
231 announcements or messages from the department, their immediate
232 supervisor, director or other personnel, during their six (6)
233 weeks of designated leave.

234 (9) The State Department of Education shall provide all
235 continuing education and training courses that school attendance
236 officers are required to complete under state law or rules and
237 regulations of the department.

238 **SECTION 2.** This act shall take effect and be in force from
239 and after July 1, 2022.

