

By: Representative Bennett

To: Education

HOUSE BILL NO. 1314

1 AN ACT TO AMEND SECTIONS 37-13-81, 37-13-85, 37-13-87 AND
 2 37-13-89, MISSISSIPPI CODE OF 1972, TO TRANSFER THE RESPONSIBILITY
 3 FOR EMPLOYING AND ESTABLISHING THE DUTIES OF SCHOOL ATTENDANCE
 4 OFFICERS FROM THE STATE DEPARTMENT OF EDUCATION TO LOCAL SCHOOL
 5 DISTRICTS; TO REQUIRE THE DEPARTMENT TO TRANSFER ALL FUNDS
 6 APPROPRIATED FOR SCHOOL ATTENDANCE OFFICERS TO LOCAL SCHOOL
 7 DISTRICTS BY JULY 15 OF EACH YEAR; TO REQUIRE SCHOOL ATTENDANCE
 8 OFFICERS TO MAINTAIN REGULAR OFFICE HOURS, BEGINNING WITH THE DATE
 9 OF THEIR RETURN FROM DESIGNATED LEAVE UNTIL THE LAST DAY PRIOR TO
 10 THE ATTENDANCE OFFICER'S DESIGNATED LEAVE IS SCHEDULED TO BEGIN;
 11 TO AMEND SECTION 37-13-91, MISSISSIPPI CODE OF 1972, IN CONFORMITY
 12 THERETO; TO BRING FORWARD SECTIONS 37-13-83 AND 37-9-17,
 13 MISSISSIPPI CODE OF 1972, FOR THE PURPOSE OF POSSIBLE AMENDMENTS;
 14 AND FOR RELATED PURPOSES.

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

16 **SECTION 1.** Section 37-13-81, Mississippi Code of 1972, is
 17 amended as follows:

18 37-13-81. There is created the Office of Compulsory School
 19 Attendance Enforcement within the Office of Dropout Prevention of
 20 the State Department of Education. The office shall be
 21 responsible for the administration of a statewide system of
 22 enforcement of the Mississippi Compulsory School Attendance Law
 23 (Section 37-13-91) and for the * * * receipt, recording and



24 analysis of data reported by school attendance officers throughout
25 the state.

26 **SECTION 2.** Section 37-13-83, Mississippi Code of 1972, is
27 brought forward as follows:

28 37-13-83. The State Superintendent of Public Education shall
29 appoint a director for the Office of Compulsory School Attendance
30 Enforcement, who shall meet all qualifications established for
31 school attendance officer supervisors and any additional
32 qualifications that may be established by the State Superintendent
33 of Public Education or State Personnel Board. The director shall
34 be responsible for the proper administration of the Office of
35 Compulsory School Attendance Enforcement in conformity with the
36 Mississippi Compulsory School Attendance Law and any other
37 regulations or policies that may be adopted by the State Board of
38 Education. The director shall report directly to the Director of
39 the Office of Dropout Prevention.

40 **SECTION 3.** Section 37-13-85, Mississippi Code of 1972, is
41 amended as follows:

42 37-13-85. The Office of Compulsory School Attendance
43 Enforcement shall have the following powers and duties, in
44 addition to all others imposed or granted by law:

45 (a) To establish any policies or guidelines * * * to be
46 used by local school districts for the employment of school
47 attendance officers which serve to effectuate a uniform system of



48 enforcement under the Mississippi Compulsory School Attendance Law
49 throughout the state * * *;

50 (b) To supervise and assist school attendance officer
51 supervisors in the performance of their duties;

52 (c) To establish minimum standards for enrollment and
53 attendance for the state and each individual school district, and
54 to monitor the success of the state and districts in achieving the
55 required levels of performance;

56 (d) To provide to school districts failing to meet the
57 established standards for enrollment and attendance assistance in
58 reducing absenteeism or the dropout rates in those districts;

59 (e) To establish any qualifications, in addition to
60 those required under Section 37-13-89, for school attendance
61 officers as the office deems necessary to further the purposes of
62 the Mississippi Compulsory School Attendance Law;

63 (f) To develop and implement a system under which
64 school districts are required to maintain accurate records that
65 document enrollment and attendance in such a manner that the
66 records reflect all changes in enrollment and attendance, and to
67 require school attendance officers to submit information
68 concerning public school attendance on a monthly basis to the
69 office;

70 (g) To prepare the form of the certificate of
71 enrollment required under the Mississippi Compulsory School
72 Attendance Law and to furnish a sufficient number of the



73 certificates of enrollment to each school attendance officer in
74 the state;

75 (h) To provide to the State Board of Education
76 statistical information concerning absenteeism, dropouts and other
77 attendance-related problems as requested by the State Board of
78 Education;

79 (i) To provide for the certification of school
80 attendance officers;

81 (j) To provide for a course of training and education
82 for school attendance officers, and to require successful
83 completion of the course as a prerequisite to certification by the
84 office as school attendance officers;

85 (k) To adopt any guidelines or policies the office
86 deems necessary to effectuate an orderly transition from the
87 supervision of school attendance officers by district attorneys to
88 the supervision by the school attendance officer supervisors;

89 (l) Beginning on July 1, * * * 2022, to require local
90 school * * * boards to employ * * * school attendance officers
91 currently serving their local school districts and employed
92 by * * * the State Department of Education before July 1, * * *
93 2022, as school attendance officers without requiring such persons
94 to submit an application or interview for employment with
95 the * * * local school board;

96 (m) To adopt policies or guidelines to assist local
97 school districts with linking the duties of school attendance



98 officers to the appropriate courts, law enforcement agencies and
99 community service providers; and

100 (n) To adopt any other policies or guidelines that the
101 office deems necessary for the enforcement of the Mississippi
102 Compulsory School Attendance Law; however, the policies or
103 guidelines shall not add to or contradict with the requirements of
104 Section 37-13-91 * * *; and

105 (o) To transfer all funds appropriated for school
106 attendance officers to local school districts by July 15 of each
107 year.

108 **SECTION 4.** Section 37-13-87, Mississippi Code of 1972, is
109 amended as follows:

110 37-13-87. (1) The Director of the Office of Compulsory
111 School Attendance Enforcement shall employ three (3) school
112 attendance officer supervisors, each to maintain an office within
113 a different Supreme Court district. Each supervisor shall be
114 responsible for the enforcement of the Mississippi Compulsory
115 School Attendance Law within his or her district * * *. The
116 supervisors, who shall report to the director of the office, shall
117 assist the school attendance officers employed by school districts
118 in his or her assigned Supreme Court district in the performance
119 of their duties as established by law or otherwise.

120 (2) No person having less than eight (8) years combined
121 actual experience as a school attendance officer, school teacher,
122 school administrator, law enforcement officer possessing a college



123 degree with a major in a behavioral science or a related field,
124 and/or social worker in the state shall be employed as a school
125 attendance officer supervisor. Further, a school attendance
126 officer supervisor shall possess a college degree with a major in
127 a behavioral science or a related field or shall have actual
128 experience as a school teacher, school administrator, law
129 enforcement officer possessing such degree or social worker;
130 however, these requirements shall not apply to persons employed as
131 school attendance officers before January 1, 1987. School
132 attendance officers shall meet any additional qualifications
133 established by the State Personnel Board for school attendance
134 officers or school attendance officer supervisors. The school
135 attendance officer supervisors shall receive an annual salary to
136 be set by the State Superintendent of Public Education, subject to
137 the approval of the State Personnel Board.

138 **SECTION 5.** Section 37-13-89, Mississippi Code of 1972, is
139 amended as follows:

140 37-13-89. (1) * * * Each school district within the
141 state * * * shall * * * employ the requisite number of school
142 attendance officers as determined by the * * * local school board
143 to be necessary to adequately enforce the provisions of the
144 Mississippi Compulsory School Attendance Law * * *. From and
145 after July 1, * * * 2022, all school attendance officers * * *
146 shall be employees of the * * * school district in which they have
147 been employed to serve, and shall be subject to same employment



148 procedures as are required for other district employees as
149 prescribed in Chapter 9, Title 37, Mississippi Code of 1972.

150 * * *

151 (2) (a) The State Department of Education shall * * *
152 transfer the current criminal records background checks and
153 current child abuse registry checks on all * * * school attendance
154 officers employed by the department * * * before July * * *
155 1, * * * 2022, to the superintendents of the local school
156 districts wherein the school attendance officer served under the
157 authority of the department. Beginning July 1, 2022, any person
158 applying to serve as a school attendance officer with a local
159 school district shall submit to a criminal records background
160 check and current child abuse registry check as required by
161 Section 37-9-17. The criminal records information and registry
162 checks must be kept on file for any new hires. In order to
163 determine an applicant's suitability for employment as a school
164 attendance officer, the applicant must be fingerprinted. If no
165 disqualifying record is identified at the state level, the
166 Department of Public Safety shall forward the fingerprints to the
167 Federal Bureau of Investigation (FBI) for a national criminal
168 history record check. The applicant shall pay the fee, not to
169 exceed Fifty Dollars (\$50.00), for the fingerprinting and criminal
170 records background check; however, the State Department of
171 Education * * * or the local school board, in its discretion, may
172 elect to pay the fee for the fingerprinting and criminal records



173 background check on behalf of any applicant. Under no
174 circumstances * * * shall a member of the State Board of
175 Education, * * * superintendent/director of schools under the
176 purview of the State Board of Education, local school district
177 superintendent, local school board member or any person other than
178 the subject of the criminal records background check disseminate
179 information received through any such checks except insofar as
180 required to fulfill the purposes of this subsection.

181 (b) If the fingerprinting or criminal records check
182 discloses a felony conviction, guilty plea or plea of nolo
183 contendere to a felony of possession or sale of drugs, murder,
184 manslaughter, armed robbery, rape, sexual battery, sex offense
185 listed in Section 45-33-23(h), child abuse, arson, grand larceny,
186 burglary, gratification of lust or aggravated assault which has
187 not been reversed on appeal or for which a pardon has not been
188 granted, the applicant is not eligible to be employed as a school
189 attendance officer. Any employment of an applicant pending the
190 results of the fingerprinting and criminal records check is
191 voidable if the new hire receives a disqualifying criminal records
192 check. However, the State Board of Education or the local school
193 board, in its discretion, may allow an applicant aggrieved by an
194 employment decision under this subsection to appear before the
195 respective board, or before a hearing officer designated for that
196 purpose, to show mitigating circumstances that may exist and allow
197 the new hire to be employed as a school attendance officer. The



198 State Board of Education or the local school board may grant
199 waivers for mitigating circumstances, which may include, but are
200 not necessarily limited to: (i) age at which the crime was
201 committed; (ii) circumstances surrounding the crime; (iii) length
202 of time since the conviction and criminal history since the
203 conviction; (iv) work history; (v) current employment and
204 character references; and (vi) other evidence demonstrating the
205 ability of the person to perform the responsibilities of a school
206 attendance officer competently and that the person does not pose a
207 threat to the health or safety of children.

208 (c) * * * No local school district, local school
209 district employee, member of the State Board of Education or
210 employee of * * * a school under the purview of the State Board of
211 Education shall be held liable in any employment discrimination
212 suit in which an allegation of discrimination is made regarding an
213 employment decision authorized under this section.

214 (3) Each school attendance officer shall possess a college
215 degree with a major in a behavioral science or a related field or
216 shall have no less than three (3) years combined actual experience
217 as a school teacher, school administrator, law enforcement officer
218 possessing such degree, and/or social worker * * *. School
219 attendance officers also shall satisfy any additional requirements
220 that may be established by the * * * hiring local school district.

221 (4) It shall be the duty of each school attendance officer
222 to:



223 (a) Cooperate with any public agency to locate and
224 identify all compulsory-school-age children who are not attending
225 school;

226 (b) Cooperate with all courts of competent
227 jurisdiction;

228 (c) Investigate all cases of nonattendance and unlawful
229 absences by compulsory-school-age children not enrolled in a
230 nonpublic school;

231 (d) Provide appropriate counseling to encourage all
232 school-age children to attend school until they have completed
233 high school;

234 (e) Attempt to secure the provision of social or
235 welfare services that may be required to enable any child to
236 attend school;

237 (f) Contact the home or place of residence of a
238 compulsory-school-age child and any other place in which the
239 officer is likely to find any compulsory-school-age child when the
240 child is absent from school during school hours without a valid
241 written excuse from school officials, and when the child is found,
242 the officer shall notify the parents and school officials as to
243 where the child was physically located;

244 (g) Contact promptly the home of each
245 compulsory-school-age child in the school district within the
246 officer's jurisdiction who is not enrolled in school or is not in
247 attendance at public school and is without a valid written excuse



248 from school officials; if no valid reason is found for the
249 nonenrollment or absence from the school, the school attendance
250 officer shall give written notice to the parent, guardian or
251 custodian of the requirement for the child's enrollment or
252 attendance;

253 (h) Collect and maintain information concerning
254 absenteeism, dropouts and other attendance-related problems, as
255 may be required by law, the local school district or the Office of
256 Compulsory School Attendance Enforcement; and

257 (i) Perform all other duties relating to compulsory
258 school attendance established by the * * * local school district
259 or district school attendance supervisor, or both.

260 (5) While engaged in the performance of his duties, each
261 school attendance officer shall carry on his person a badge
262 identifying him as a school attendance officer * * * for the
263 employing local school district and an identification card
264 designed by * * * and issued by the * * * local school district.
265 Neither the badge nor the identification card shall bear the name
266 of any elected public official.

267 (6) The State Personnel Board shall develop a salary scale
268 for school attendance officers as part of the variable
269 compensation plan. The various pay ranges of the salary scale
270 shall be based upon factors including, but not limited to,
271 education, professional certification and licensure, and number of



272 years of experience. School attendance officers shall be paid in
273 accordance with this salary scale. * * *

274 * * *

275 (* * *7) (a) * * * During the school term, on those days
276 that teachers in all of the school districts served by a school
277 attendance officer are not required to report to work, the school
278 attendance officer also shall not be required to report to work.
279 (For purposes of this subsection, a school district's school term
280 is that period of time identified as the school term in contracts
281 entered into by the district with licensed personnel.) A school
282 attendance officer shall be required to report to work on any day
283 recognized as an official state holiday if teachers in any school
284 district served by that school attendance officer are required to
285 report to work on that day * * *.

286 (b) * * * School attendance officers shall maintain
287 regular office hours, from 8:00 a.m. to 5:00 p.m., beginning with
288 the date of their return from designated leave, during the school
289 term most representative of all the school districts served by
290 that school attendance officer, and until the last day prior to
291 the attendance officer's designated leave is scheduled to begin.
292 Each local school district annually shall designate a period of
293 six (6) consecutive weeks in the summer between school years
294 during which school attendance officers shall not be required to
295 report to work. A school attendance officer who elects to work at
296 any time during that period may not be awarded compensatory leave



297 for such work and may not opt to be absent from work at any time
298 other than during the six (6) weeks designated by the * * * school
299 district unless the school attendance officer uses personal leave
300 or major medical leave accrued under Section 25-3-93 or 25-3-95
301 for such absence. School attendance officers are expected to
302 regularly and routinely check their district-assigned email and
303 district-issued cellular phone to remain abreast of important
304 announcements or messages from the school district, their
305 immediate supervisor or other personnel, during their six (6)
306 weeks of designated leave.

307 (* * *8) The State Department of Education shall provide
308 all continuing education and training courses that school
309 attendance officers are required to complete under state law or
310 rules and regulations of the department.

311 **SECTION 6.** Section 37-13-91, Mississippi Code of 1972, is
312 amended as follows:

313 37-13-91. (1) This section shall be referred to as the
314 "Mississippi Compulsory School Attendance Law."

315 (2) The following terms as used in this section are defined
316 as follows:

317 (a) "Parent" means the father or mother to whom a child
318 has been born, or the father or mother by whom a child has been
319 legally adopted.



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

323 (c) "Custodian" means any person having the present
324 care or custody of a child, other than a parent or guardian of the
325 child.

326 (d) "School day" means not less than five and one-half
327 (5-1/2) and not more than eight (8) hours of actual teaching in
328 which both teachers and pupils are in regular attendance for
329 scheduled schoolwork.

330 (e) "School" means any public school, including a
331 charter school, in this state or any nonpublic school in this
332 state which is in session each school year for at least one
333 hundred eighty (180) school days, except that the "nonpublic"
334 school term shall be the number of days that each school shall
335 require for promotion from grade to grade.

336 (f) "Compulsory-school-age child" means a child who has
337 attained or will attain the age of six (6) years on or before
338 September 1 of the calendar year and who has not attained the age
339 of seventeen (17) years on or before September 1 of the calendar
340 year; and shall include any child who has attained or will attain
341 the age of five (5) years on or before September 1 and has
342 enrolled in a full-day public school kindergarten program.

343 (g) "School attendance officer" means a person employed
344 by * * * a local school district pursuant to Section 37-13-89.



345 (h) "Appropriate school official" means the
346 superintendent of the school district, or his designee, or, in the
347 case of a nonpublic school, the principal or the headmaster.

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

354 (3) A parent, guardian or custodian of a
355 compulsory-school-age child in this state shall cause the child to
356 enroll in and attend a public school or legitimate nonpublic
357 school for the period of time that the child is of compulsory
358 school age, except under the following circumstances:

359 (a) When a compulsory-school-age child is physically,
360 mentally or emotionally incapable of attending school as
361 determined by the appropriate school official based upon
362 sufficient medical documentation.

363 (b) When a compulsory-school-age child is enrolled in
364 and pursuing a course of special education, remedial education or
365 education for handicapped or physically or mentally disadvantaged
366 children.

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



369 The parent, guardian or custodian of a compulsory-school-age
370 child described in this subsection, or the parent, guardian or
371 custodian of a compulsory-school-age child attending any charter
372 school or nonpublic school, or the appropriate school official for
373 any or all children attending a charter school or nonpublic school
374 shall complete a "certificate of enrollment" in order to
375 facilitate the administration of this section.

376 The form of the certificate of enrollment shall be prepared
377 by the Office of Compulsory School Attendance Enforcement of the
378 State Department of Education and shall be designed to obtain the
379 following information only:

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

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

384 (iii) A simple description of the type of
385 education the compulsory-school-age child is receiving and, if the
386 child is enrolled in a nonpublic school, the name and address of
387 the school; and

388 (iv) The signature of the parent, guardian or
389 custodian of the compulsory-school-age child or, for any or all
390 compulsory-school-age child or children attending a charter school
391 or nonpublic school, the signature of the appropriate school
392 official and the date signed.



393 The certificate of enrollment shall be returned to the school
394 attendance officer where the child resides on or before September
395 15 of each year. Any parent, guardian or custodian found by the
396 school attendance officer to be in noncompliance with this section
397 shall comply, after written notice of the noncompliance by the
398 school attendance officer, with this subsection within ten (10)
399 days after the notice or be in violation of this section.

400 However, in the event the child has been enrolled in a public
401 school within fifteen (15) calendar days after the first day of
402 the school year as required in subsection (6), the parent or
403 custodian may, at a later date, enroll the child in a legitimate
404 nonpublic school or legitimate home instruction program and send
405 the certificate of enrollment to the school attendance officer and
406 be in compliance with this subsection.

407 For the purposes of this subsection, a legitimate nonpublic
408 school or legitimate home instruction program shall be those not
409 operated or instituted for the purpose of avoiding or
410 circumventing the compulsory attendance law.

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



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

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

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

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

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

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



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

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

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

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

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



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

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

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

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



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

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

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



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

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



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

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

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



567 **SECTION 7.** Section 37-9-17, Mississippi Code of 1972, is
568 brought forward as follows:

569 37-9-17. (1) On or before April 1 of each year, the
570 principal of each school shall recommend to the superintendent of
571 the local school district the licensed employees or
572 noninstructional employees to be employed for the school involved
573 except those licensed employees or noninstructional employees who
574 have been previously employed and who have a contract valid for
575 the ensuing scholastic year. If such recommendations meet with
576 the approval of the superintendent, the superintendent shall
577 recommend the employment of such licensed employees or
578 noninstructional employees to the local school board, and, unless
579 good reason to the contrary exists, the board shall elect the
580 employees so recommended. If, for any reason, the local school
581 board shall decline to elect any employee so recommended,
582 additional recommendations for the places to be filled shall be
583 made by the principal to the superintendent and then by the
584 superintendent to the local school board as provided above. The
585 school board of any local school district shall be authorized to
586 designate a personnel supervisor or another principal employed by
587 the school district to recommend to the superintendent licensed
588 employees or noninstructional employees; however, this
589 authorization shall be restricted to no more than two (2)
590 positions for each employment period for each school in the local
591 school district. Any noninstructional employee employed upon the



592 recommendation of a personnel supervisor or another principal
593 employed by the local school district must have been employed by
594 the local school district at the time the superintendent was
595 elected or appointed to office; a noninstructional employee
596 employed under this authorization may not be paid compensation in
597 excess of the statewide average compensation for such
598 noninstructional position with comparable experience, as
599 established by the State Department of Education. The school
600 board of any local school district shall be authorized to
601 designate a personnel supervisor or another principal employed by
602 the school district to accept the recommendations of principals or
603 their designees for licensed employees or noninstructional
604 employees and to transmit approved recommendations to the local
605 school board; however, this authorization shall be restricted to
606 no more than two (2) positions for each employment period for each
607 school in the local school district.

608 When the licensed employees have been elected as provided in
609 the preceding paragraph, the superintendent of the district shall
610 enter into a contract with such persons in the manner provided in
611 this chapter.

612 If, at the commencement of the scholastic year, any licensed
613 employee shall present to the superintendent a license of a higher
614 grade than that specified in such individual's contract, such
615 individual may, if funds are available from adequate education
616 program funds of the district, or from district funds, be paid



617 from such funds the amount to which such higher grade license
618 would have entitled the individual, had the license been held at
619 the time the contract was executed.

620 (2) Superintendents/directors of schools under the purview
621 of the State Board of Education, the superintendent of the local
622 school district and any private firm under contract with the local
623 public school district to provide substitute teachers to teach
624 during the absence of a regularly employed schoolteacher shall
625 require, through the appropriate governmental authority, that
626 current criminal records background checks and current child abuse
627 registry checks are obtained, and that such criminal record
628 information and registry checks are on file for any new hires
629 applying for employment as a licensed or nonlicensed employee at a
630 school and not previously employed in such school under the
631 purview of the State Board of Education or at such local school
632 district prior to July 1, 2000. In order to determine the
633 applicant's suitability for employment, the applicant shall be
634 fingerprinted. If no disqualifying record is identified at the
635 state level, the fingerprints shall be forwarded by the Department
636 of Public Safety to the Federal Bureau of Investigation for a
637 national criminal history record check. The fee for such
638 fingerprinting and criminal history record check shall be paid by
639 the applicant, not to exceed Fifty Dollars (\$50.00); however, the
640 State Board of Education, the school board of the local school
641 district or a private firm under contract with a local school



642 district to provide substitute teachers to teach during the
643 temporary absence of the regularly employed schoolteacher, in its
644 discretion, may elect to pay the fee for the fingerprinting and
645 criminal history record check on behalf of any applicant. Under
646 no circumstances shall a member of the State Board of Education,
647 superintendent/director of schools under the purview of the State
648 Board of Education, local school district superintendent, local
649 school board member or any individual other than the subject of
650 the criminal history record checks disseminate information
651 received through any such checks except insofar as required to
652 fulfill the purposes of this section. Any nonpublic school which
653 is accredited or approved by the State Board of Education may
654 avail itself of the procedures provided for herein and shall be
655 responsible for the same fee charged in the case of local public
656 schools of this state. The determination whether the applicant
657 has a disqualifying crime, as set forth in subsection (3) of this
658 section, shall be made by the appropriate governmental authority,
659 and the appropriate governmental authority shall notify the
660 private firm whether a disqualifying crime exists.

661 (3) If such fingerprinting or criminal record checks
662 disclose a felony conviction, guilty plea or plea of nolo
663 contendere to a felony of possession or sale of drugs, murder,
664 manslaughter, armed robbery, rape, sexual battery, sex offense
665 listed in Section 45-33-23(h), child abuse, arson, grand larceny,
666 burglary, gratification of lust or aggravated assault which has



667 not been reversed on appeal or for which a pardon has not been
668 granted, the new hire shall not be eligible to be employed at such
669 school. Any employment contract for a new hire executed by the
670 superintendent of the local school district or any employment of a
671 new hire by a superintendent/director of a new school under the
672 purview of the State Board of Education or by a private firm shall
673 be voidable if the new hire receives a disqualifying criminal
674 record check. However, the State Board of Education or the school
675 board may, in its discretion, allow any applicant aggrieved by the
676 employment decision under this section to appear before the
677 respective board, or before a hearing officer designated for such
678 purpose, to show mitigating circumstances which may exist and
679 allow the new hire to be employed at the school. The State Board
680 of Education or local school board may grant waivers for such
681 mitigating circumstances, which shall include, but not be limited
682 to: (a) age at which the crime was committed; (b) circumstances
683 surrounding the crime; (c) length of time since the conviction and
684 criminal history since the conviction; (d) work history; (e)
685 current employment and character references; (f) other evidence
686 demonstrating the ability of the person to perform the employment
687 responsibilities competently and that the person does not pose a
688 threat to the health or safety of the children at the school.

689 (4) No local school district, local school district
690 employee, member of the State Board of Education or employee of a
691 school under the purview of the State Board of Education shall be



692 held liable in any employment discrimination suit in which an
693 allegation of discrimination is made regarding an employment
694 decision authorized under this Section 37-9-17.

695 (5) The provisions of this section shall be fully applicable
696 to licensed employees of the Mississippi School of the Arts (MSA),
697 established in Section 37-140-1 et seq.

698 **SECTION 8.** This act shall take effect and be in force from
699 and after July 1, 2022.

