

By: Representative McCarty

To: Education

HOUSE BILL NO. 1417

1 AN ACT TO AMEND SECTION 37-13-91, MISSISSIPPI CODE OF 1972,  
 2 TO PROVIDE THAT A COMPULSORY-SCHOOL-AGE CHILD'S ABSENCE FROM  
 3 SCHOOL FOR PURPOSES OF PARTICIPATING IN A CIVIC ENGAGEMENT  
 4 ACTIVITY OR POLITICAL EVENT SHALL BE EXCUSED; TO REQUIRE THE  
 5 CHILD'S PARENT OR GUARDIAN TO PROVIDE WRITTEN PERMISSION TO THE  
 6 SCHOOL PRINCIPAL OR DESIGNEE NO LATER THAN THREE SCHOOL DAYS PRIOR  
 7 TO THE STUDENT'S PLANNED ABSENCE; AND FOR RELATED PURPOSES.

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

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

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

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

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

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



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

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

28 (e) "School" means any public school, including a  
29 charter school, in this state or any nonpublic school in this  
30 state which is in session each school year for at least one  
31 hundred eighty (180) school days, except that the "nonpublic"  
32 school term shall be the number of days that each school shall  
33 require for 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 seventeen (17) years on or before September 1 of the calendar  
38 year; and shall include any child who has attained or will attain  
39 the age of five (5) years on or before September 1 and has  
40 enrolled in a full-day public school kindergarten program.

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

43 (h) "Appropriate school official" means the  
44 superintendent of the school district, or his designee, or, in the  
45 case of a nonpublic school, the principal or the headmaster.



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

52 (3) A parent, guardian or custodian of a  
53 compulsory-school-age child in this state shall cause the child to  
54 enroll in and attend a public school or legitimate nonpublic  
55 school for the period of time that the child is of compulsory  
56 school age, except under the following circumstances:

57 (a) When a compulsory-school-age child is physically,  
58 mentally or emotionally incapable of attending school as  
59 determined by the appropriate school official based upon  
60 sufficient medical documentation.

61 (b) When a compulsory-school-age child is enrolled in  
62 and pursuing a course of special education, remedial education or  
63 education for handicapped or physically or mentally disadvantaged  
64 children.

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

67 The parent, guardian or custodian of a compulsory-school-age  
68 child described in this subsection, or the parent, guardian or  
69 custodian of a compulsory-school-age child attending any charter  
70 school or nonpublic school, or the appropriate school official for



71 any or all children attending a charter school or nonpublic school  
72 shall complete a "certificate of enrollment" in order to  
73 facilitate the administration of this section.

74 The form of the certificate of enrollment shall be prepared  
75 by the Office of Compulsory School Attendance Enforcement of the  
76 State Department of Education and shall be designed to obtain the  
77 following information only:

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

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

82 (iii) A simple description of the type of  
83 education the compulsory-school-age child is receiving and, if the  
84 child is enrolled in a nonpublic school, the name and address of  
85 the school; and

86 (iv) The signature of the parent, guardian or  
87 custodian of the compulsory-school-age child or, for any or all  
88 compulsory-school-age child or children attending a charter school  
89 or nonpublic school, the signature of the appropriate school  
90 official and the date signed.

91 The certificate of enrollment shall be returned to the school  
92 attendance officer where the child resides on or before September  
93 15 of each year. Any parent, guardian or custodian found by the  
94 school attendance officer to be in noncompliance with this section  
95 shall comply, after written notice of the noncompliance by the



96 school attendance officer, with this subsection within ten (10)  
97 days after the notice or be in violation of this section.  
98 However, in the event the child has been enrolled in a public  
99 school within fifteen (15) calendar days after the first day of  
100 the school year as required in subsection (6), the parent or  
101 custodian may, at a later date, enroll the child in a legitimate  
102 nonpublic school or legitimate home instruction program and send  
103 the certificate of enrollment to the school attendance officer and  
104 be in compliance with this subsection.

105 For the purposes of this subsection, a legitimate nonpublic  
106 school or legitimate home instruction program shall be those not  
107 operated or instituted for the purpose of avoiding or  
108 circumventing the compulsory attendance law.

109 (4) An "unlawful absence" is an absence for an entire school  
110 day or during part of a school day by a compulsory-school-age  
111 child, which absence is not due to a valid excuse for temporary  
112 nonattendance. For purposes of reporting absenteeism under  
113 subsection (6) of this section, if a compulsory-school-age child  
114 has an absence that is more than thirty-seven percent (37%) of the  
115 instructional day, as fixed by the school board for the school at  
116 which the compulsory-school-age child is enrolled, the child must  
117 be considered absent the entire school day. Days missed from  
118 school due to disciplinary suspension shall not be considered an  
119 "excused" absence under this section. This subsection shall not  
120 apply to children enrolled in a nonpublic school.



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

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

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

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

139           (d) An absence is excused when it results from the  
140 death or serious illness of a member of the immediate family of a  
141 compulsory-school-age child. The immediate family members of a  
142 compulsory-school-age child shall include children, spouse,  
143 grandparents, parents, brothers and sisters, including  
144 stepbrothers and stepsisters.



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

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

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

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

166 (i) An absence may be excused when it is demonstrated  
167 to the satisfaction of the superintendent of the school district,  
168 or his designee, that conditions are sufficient to warrant the  
169 compulsory-school-age child's nonattendance. However, no absences



170 shall be excused by the school district superintendent, or his  
171 designee, when any student suspensions or expulsions circumvent  
172 the intent and spirit of the compulsory attendance law.

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

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

184 (l) An absence is excused when it results from the  
185 compulsory-school-age child officially participating in a civic  
186 engagement activity or political event, provided that the child's  
187 parent or guardian must provide written permission to the school  
188 principal or designee no later than three (3) school days prior to  
189 the student's planned absence. It is incumbent upon each school  
190 to determine what is acceptable as written permission, either a  
191 letter or email from the parent or guardian, or a form designed by  
192 the school or school district.

193 (5) Any parent, guardian or custodian of a  
194 compulsory-school-age child subject to this section who refuses or





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

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

218       (6) If a compulsory-school-age child has not been enrolled  
219 in a school within fifteen (15) calendar days after the first day



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

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



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

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

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



270 state agency or other entity to control, manage, supervise,  
271 provide for or affect the operation, management, program,  
272 curriculum, admissions policy or discipline of any such school or  
273 home instruction program.

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

