

By: Representative Hood

To: Education

HOUSE BILL NO. 652

1 AN ACT TO AMEND SECTION 37-13-91, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE FOR EXCUSED ABSENCES FOR COMPULSORY-SCHOOL-AGE CHILDREN
3 FOR PARTICIPATING IN ROPING AND BARREL HORSE RACING EVENTS; AND
4 FOR RELATED PURPOSES.

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

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

8 37-13-91. (1) This section shall be referred to as the
9 "Mississippi Compulsory School Attendance Law."

10 (2) The following terms as used in this section are defined
11 as follows:

12 (a) "Parent" means the father or mother to whom a child
13 has been born, or the father or mother by whom a child has been
14 legally adopted.

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



18 (c) "Custodian" means any person having the present
19 care or custody of a child, other than a parent or guardian of the
20 child.

21 (d) "School day" means not less than five and one-half
22 (5-1/2) and not more than eight (8) hours of actual teaching in
23 which both teachers and pupils are in regular attendance for
24 scheduled schoolwork.

25 (e) "School" means any public school, including a
26 charter school, in this state or any nonpublic school in this
27 state which is in session each school year for at least one
28 hundred eighty (180) school days, except that the "nonpublic"
29 school term shall be the number of days that each school shall
30 require for promotion from grade to grade.

31 (f) "Compulsory-school-age child" means a child who has
32 attained or will attain the age of six (6) years on or before
33 September 1 of the calendar year and who has not attained the age
34 of seventeen (17) years on or before September 1 of the calendar
35 year; and shall include any child who has attained or will attain
36 the age of five (5) years on or before September 1 and has
37 enrolled in a full-day public school kindergarten program.

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

40 (h) "Appropriate school official" means the
41 superintendent of the school district, or his designee, or, in the
42 case of a nonpublic school, the principal or the headmaster.



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

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

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

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

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

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



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

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

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

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

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

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

88 The certificate of enrollment shall be returned to the school
89 attendance officer where the child resides on or before September
90 15 of each year. Any parent, guardian or custodian found by the
91 school attendance officer to be in noncompliance with this section
92 shall comply, after written notice of the noncompliance by the



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

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

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



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

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

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

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

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



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

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

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

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

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



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

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

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

181 (l) An absence is excused when it results from the
182 attendance of a compulsory-school-age child participating in
183 official organized roping and barrel racing events sponsored by
184 the National Barrel Horse Association or the National High School
185 Rodeo Association. The excuse for the NBHA or NHSRA event must be
186 provided in writing to the appropriate school superintendent by
187 the event organizer and the parent of the participating
188 compulsory-school-age child.

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



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

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

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



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

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



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

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

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



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

270 **SECTION 2.** This act shall take effect and be in force from
271 and after July 1, 2023.

