

By: Representatives Hulum, Anthony, Denton,
Osborne, Sanders, Taylor

To: Education;
Appropriations

HOUSE BILL NO. 805

1 AN ACT TO AMEND SECTION 37-13-91, MISSISSIPPI CODE OF 1972,
2 TO REVISE THE DEFINITION OF THE TERM "COMPULSORY-SCHOOL-AGE CHILD"
3 TO INCLUDE CHILDREN WHO ATTAIN THE AGE OF FIVE YEARS BEFORE
4 SEPTEMBER 1 UNDER THE COMPULSORY SCHOOL ATTENDANCE LAW; AND FOR
5 RELATED PURPOSES.

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

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

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

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

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

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



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

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

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

32 (f) "Compulsory-school-age child" means a child who has
33 attained or will attain the age of * * * five (5) years on or
34 before September 1 of the calendar year and who has not attained
35 the age of seventeen (17) years on or before September 1 of the
36 calendar year * * *. A five-year-old child shall be enrolled in a
37 full-day public school kindergarten program of instruction and
38 that child and the child's parent or guardian shall be subject to
39 the provisions of this section.

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



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

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

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

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

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

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



66 (d) When a compulsory-school-age child, who has
67 attained the age of five (5) years, is being educated in a
68 licensed child care facility, including day nurseries and day care
69 centers, that offers a structured school or school readiness
70 program.

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

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

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

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

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



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

95 The certificate of enrollment shall be returned to the school
96 attendance officer where the child resides on or before September
97 15 of each year. Any parent, guardian or custodian found by the
98 school attendance officer to be in noncompliance with this section
99 shall comply, after written notice of the noncompliance by the
100 school attendance officer, with this subsection within ten (10)
101 days after the notice or be in violation of this section.

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

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

113 (4) An "unlawful absence" is an absence for an entire school
114 day or during part of a school day by a compulsory-school-age



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

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

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

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



139 (c) An absence is excused when isolation of a
140 compulsory-school-age child is ordered by the county health
141 officer, by the State Board of Health or appropriate school
142 official.

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

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

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

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

162 (h) An absence may be excused when it is demonstrated
163 to the satisfaction of the superintendent of the school district,



164 or his designee, that the purpose of the absence is to take
165 advantage of a valid educational opportunity such as travel,
166 including vacations or other family travel. Approval of the
167 absence must be gained from the superintendent of the school
168 district, or his designee, before the absence, but the approval
169 shall not be unreasonably withheld.

170 (i) An absence may be excused when it is demonstrated
171 to the satisfaction of the superintendent of the school district,
172 or his designee, that conditions are sufficient to warrant the
173 compulsory-school-age child's nonattendance. However, no absences
174 shall be excused by the school district superintendent, or his
175 designee, when any student suspensions or expulsions circumvent
176 the intent and spirit of the compulsory attendance law.

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

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



188 (5) Any parent, guardian or custodian of a
189 compulsory-school-age child subject to this section who refuses or
190 willfully fails to perform any of the duties imposed upon him or
191 her under this section or who intentionally falsifies any
192 information required to be contained in a certificate of
193 enrollment, shall be guilty of contributing to the neglect of a
194 child and, upon conviction, shall be punished in accordance with
195 Section 97-5-39.

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



213 (6) If a compulsory-school-age child has not been enrolled
214 in a school within fifteen (15) calendar days after the first day
215 of the school year of the school which the child is eligible to
216 attend or the child has accumulated five (5) unlawful absences
217 during the school year of the public school in which the child is
218 enrolled, the school district superintendent or his designee shall
219 report, within two (2) school days or within five (5) calendar
220 days, whichever is less, the absences to the school attendance
221 officer. The State Department of Education shall prescribe a
222 uniform method for schools to utilize in reporting the unlawful
223 absences to the school attendance officer. The superintendent or
224 his designee, also shall report any student suspensions or student
225 expulsions to the school attendance officer when they occur.

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



238 to parent or child for violation of this section. The youth court
239 shall expedite a hearing to make an appropriate adjudication and a
240 disposition to ensure compliance with the Compulsory School
241 Attendance Law, and may order the child to enroll or re-enroll in
242 school. The superintendent of the school district to which the
243 child is ordered may assign, in his discretion, the child to the
244 alternative school program of the school established pursuant to
245 Section 37-13-92.

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

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



263 grant, by implication or otherwise, any right or authority to any
264 state agency or other entity to control, manage, supervise,
265 provide for or affect the operation, management, program,
266 curriculum, admissions policy or discipline of any such school or
267 home instruction program.

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

