

By: Representative Crawford

To: Education

HOUSE BILL NO. 1050

1 AN ACT TO AMEND SECTION 37-13-91, MISSISSIPPI CODE OF 1972,
 2 TO PROVIDE THAT ABSENCES RESULTING FROM STUDENTS DISABILITY AS
 3 DEFINED BY STATE STATUTE, UNDER IDEA AND SECTION 504 OF THE
 4 REHABILITATION ACT OF 1973, SHALL BE DEEMED EXCUSED; TO EXEMPT THE
 5 PARENTS OR LEGAL GUARDIANS OF CHILDREN WITH DISABILITIES FROM
 6 PROSECUTION FOR ABSENCES RELATED TO THE CHILD'S DISABILITY; TO
 7 REQUIRE THE STATE BOARD OF EDUCATION TO ADOPT RULES AND
 8 REGULATIONS GOVERNING THE IMPLEMENTATION OF PROCEDURES TO PROMOTE
 9 INTERVENTIONS TO ASSIST STUDENTS VULNERABLE TO CHRONIC ABSENTEEISM
 10 AND SCHOOLS AND DISTRICTS WITH HIGH RATES OF CHRONIC ABSENTEEISM;
 11 AND FOR RELATED PURPOSES.

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

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

15 37-13-91. (1) This section shall be referred to as the
 16 "Mississippi Compulsory School Attendance Law."

17 (2) The following terms as used in this section are defined
 18 as follows:

19 (a) "Parent" means the father or mother to whom a child
 20 has been born, or the father or mother by whom a child has been
 21 legally adopted.



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

25 (c) "Custodian" means any person having the present
26 care or custody of a child, other than a parent or guardian of the
27 child.

28 (d) "School day" means not less than five and one-half
29 (5-1/2) and not more than eight (8) hours of actual teaching in
30 which both teachers and pupils are in regular attendance for
31 scheduled schoolwork.

32 (e) "School" means any public school, including a
33 charter school, in this state or any nonpublic school in this
34 state which is in session each school year for at least one
35 hundred eighty (180) school days, except that the "nonpublic"
36 school term shall be the number of days that each school shall
37 require for promotion from grade to grade.

38 (f) "Compulsory-school-age child" means a child who has
39 attained or will attain the age of six (6) years on or before
40 September 1 of the calendar year and who has not attained the age
41 of seventeen (17) years on or before September 1 of the calendar
42 year; and shall include any child who has attained or will attain
43 the age of five (5) years on or before September 1 and has
44 enrolled in a full-day public school kindergarten program.

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



47 (h) "Appropriate school official" means the
48 superintendent of the school district, or his designee, or, in the
49 case of a nonpublic school, the principal or the headmaster.

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

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

61 (a) When a compulsory-school-age child is physically,
62 mentally or emotionally incapable of attending school as
63 determined by the appropriate school official based upon
64 sufficient medical documentation.

65 (b) When a compulsory-school-age child is enrolled in
66 and pursuing a course of special education, remedial education or
67 education for handicapped or physically or mentally disadvantaged
68 children.

69 (c) When a compulsory-school-age child is being
70 educated in a legitimate home instruction 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 (l) An absence is excused when it results from the
189 child's disability under the Individuals with Disabilities in
190 Education Act (IDEA) or outside treatment for the child's
191 disability under the IDEA. A child with a disability means a
192 child as defined under IDEA, Section 37-23-3, Mississippi Code of
193 1972, and as adopted by the State Board of Education policy.



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

202 Upon prosecution of a parent, guardian or custodian of a
203 compulsory-school-age child for violation of this section, the
204 presentation of evidence by the prosecutor that shows that the
205 child has not been enrolled in school within eighteen (18)
206 calendar days after the first day of the school year of the public
207 school which the child is eligible to attend, or that the child
208 has accumulated twelve (12) unlawful absences during the school
209 year at the public school in which the child has been enrolled,
210 shall establish a prima facie case that the child's parent,
211 guardian or custodian is responsible for the absences and has
212 refused or willfully failed to perform the duties imposed upon him
213 or her under this section. However, no proceedings under this
214 section shall be brought against a parent, guardian or custodian
215 of a compulsory-school-age child if such absences are the result
216 of a disability under the IDEA or Section 504 of the
217 Rehabilitation Act of 1973. A stay on truancy proceedings shall
218 be implemented to determine if the absences may be the result of a



219 disability under IDEA and the local education agency is considered
220 "on notice" that the child might have a disability. The school is
221 required to initiate child find processes under IDEA to identify,
222 locate and evaluate the minor child to determine if the child has
223 a disability and is entitled to special education services under
224 IDEA or a 504 Plan for that disability. A Multidisciplinary
225 Evaluation Team (MET) shall convene to determine whether the
226 student requires a comprehensive evaluation, or re-evaluation for
227 students already receiving services under IDEA or a 504 Plan, to
228 determine eligibility for special education services under IDEA.
229 Any student who does not qualify for special education services
230 under IDEA must be considered for eligibility under a 504 Plan.
231 If the absence is a result of a disability under IDEA or Section
232 504, then the absence shall be excused pursuant to subsection
233 (4)(1) of this section, and all truancy proceedings shall be
234 dismissed. If the absence is not the result of a disability, as
235 defined under IDEA or Section 504, then no proceedings under this
236 section shall be brought against a parent, guardian or custodian
237 of a compulsory-school-age child unless the school attendance
238 officer has contacted promptly the home of the child and has
239 provided written notice to the parent, guardian or custodian of
240 the requirement for the child's enrollment or attendance.

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



244 attend or the child has accumulated five (5) unlawful absences
245 during the school year of the public school in which the child is
246 enrolled, the school district superintendent, or his designee,
247 shall report, within two (2) school days or within five (5)
248 calendar days, whichever is less, the absences to the school
249 attendance officer. The State Department of Education shall
250 prescribe a uniform method for schools to utilize in reporting the
251 unlawful absences to the school attendance officer. The
252 superintendent, or his designee, also shall report any student
253 suspensions or student expulsions to the school attendance officer
254 when they occur.

255 (7) When a school attendance officer has made all attempts
256 to secure enrollment and/or attendance of a compulsory-school-age
257 child and is unable to effect the enrollment and/or attendance,
258 the attendance officer shall file a petition with the youth court
259 under Section 43-21-451 or shall file a petition in a court of
260 competent jurisdiction as it pertains to parent or child.
261 Sheriffs, deputy sheriffs and municipal law enforcement officers
262 shall be fully authorized to investigate all cases of
263 nonattendance and unlawful absences by compulsory-school-age
264 children, and shall be authorized to file a petition with the
265 youth court under Section 43-21-451 or file a petition or
266 information in the court of competent jurisdiction as it pertains
267 to parent or child for violation of this section. The youth court
268 shall expedite a hearing to make an appropriate adjudication and a



269 disposition to ensure compliance with the Compulsory School
270 Attendance Law, and may order the child to enroll or re-enroll in
271 school. The superintendent of the school district to which the
272 child is ordered may assign, in his discretion, the child to the
273 alternative school program of the school established pursuant to
274 Section 37-13-92.

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

279 (9) The State Board of Education shall adopt rules and
280 regulations requiring the implementation of evidence-based
281 procedures that encourage effective interventions for assisting
282 individual students who are vulnerable to chronic absences and, as
283 necessary, schools and districts with high rates of chronic
284 absenteeism.

285 (* * *10) Notwithstanding any provision or implication
286 herein to the contrary, it is not the intention of this section to
287 impair the primary right and the obligation of the parent or
288 parents, or person or persons in loco parentis to a child, to
289 choose the proper education and training for such child, and
290 nothing in this section shall ever be construed to grant, by
291 implication or otherwise, to the State of Mississippi, any of its
292 officers, agencies or subdivisions any right or authority to
293 control, manage, supervise or make any suggestion as to the



294 control, management or supervision of any private or parochial
295 school or institution for the education or training of children,
296 of any kind whatsoever that is not a public school according to
297 the laws of this state; and this section shall never be construed
298 so as to grant, by implication or otherwise, any right or
299 authority to any state agency or other entity to control, manage,
300 supervise, provide for or affect the operation, management,
301 program, curriculum, admissions policy or discipline of any such
302 school or home instruction program.

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

