

By: Representative Bennett

To: Education

HOUSE BILL NO. 1179

1 AN ACT TO AMEND SECTIONS 37-13-81, 37-13-83, 37-13-85,
2 37-13-87 AND 37-13-89, MISSISSIPPI CODE OF 1972, TO CLARIFY THE
3 NAME OF THE OFFICE OF COMPULSORY SCHOOL ATTENDANCE ENFORCEMENT AND
4 DROPOUT PREVENTION WITHIN THE STATE DEPARTMENT OF EDUCATION; TO
5 PROVIDE FOR THE APPOINTMENT OF AN EXECUTIVE DIRECTOR OF THE OFFICE
6 BY THE STATE SUPERINTENDENT OF PUBLIC EDUCATION; TO TRANSFER THE
7 RESPONSIBILITY FOR EMPLOYING AND ESTABLISHING THE DUTIES OF SCHOOL
8 ATTENDANCE OFFICERS FROM THE STATE DEPARTMENT OF EDUCATION TO
9 LOCAL SCHOOL DISTRICTS; TO ABOLISH THE THREE REGIONAL SCHOOL
10 ATTENDANCE OFFICER POSITIONS AND PROVIDE THAT THOSE INDIVIDUALS
11 WHO ARE CURRENTLY SERVING IN SUCH POSITIONS SHALL BE EMPLOYED BY
12 THE LARGEST SCHOOL DISTRICT IN THEIR RESPECTIVE SUPREME COURT
13 DISTRICTS; TO CLARIFY THE MINIMUM QUALIFICATIONS NECESSARY FOR
14 SCHOOL ATTENDANCE OFFICERS AND REMOVE THE REQUIREMENT OF THE STATE
15 PERSONNEL BOARD TO ESTABLISH ADDITIONAL QUALIFICATIONS FOR SCHOOL
16 ATTENDANCE OFFICERS; TO PROVIDE THAT SCHOOL ATTENDANCE OFFICERS
17 EMPLOYED BY THE STATE DEPARTMENT OF EDUCATION ON JUNE 30, 2023
18 SHALL BE TRANSFERRED FROM STATE SERVICE UNDER THE STATE PERSONNEL
19 BOARD TO EMPLOYMENT STATUS AS EMPLOYEES OF THEIR RESPECTIVE SCHOOL
20 DISTRICTS WITH WORK LOCATIONS THEREIN; TO PROVIDE THAT SCHOOL
21 ATTENDANCE OFFICERS SHALL NOT EXPERIENCE ANY INTERRUPTION OF
22 SERVICE WITH THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM AND THE
23 SCHOOL EMPLOYEES' HEALTH INSURANCE PLAN AS A RESULT OF THE
24 TRANSFER OF EMPLOYMENT RESPONSIBILITY; TO PROVIDE FOR THE TRANSFER
25 OF ANY UNUSED ACCUMULATED LEAVE; TO AMEND SECTION 37-13-91,
26 MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; TO BRING FORWARD
27 SECTIONS 37-7-307 AND 37-9-17, MISSISSIPPI CODE OF 1972, FOR THE
28 PURPOSE OF POSSIBLE AMENDMENTS; AND FOR RELATED PURPOSES.

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

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



32 37-13-81. There is created the Office of Compulsory School
33 Attendance Enforcement * * * and Dropout Prevention * * * within
34 the State Department of Education. The office shall be
35 responsible for the administration of a statewide system of
36 enforcement of the Mississippi Compulsory School Attendance Law
37 (Section 37-13-91) * * *.

38 **SECTION 2.** Section 37-13-83, Mississippi Code of 1972, is
39 amended as follows:

40 37-13-83. The State Superintendent of Public Education shall
41 appoint an executive director for the Office of Compulsory School
42 Attendance Enforcement and Dropout Prevention, who shall meet all
43 qualifications established for school attendance officer
44 supervisors and any additional qualifications that may be
45 established by the State Superintendent of Public Education or
46 State Personnel Board. The executive director shall be
47 responsible for the proper administration of the Office of
48 Compulsory School Attendance Enforcement in conformity with the
49 Mississippi Compulsory School Attendance Law and any other
50 regulations or policies that may be adopted by the State Board of
51 Education. The * * * executive director of the Office of
52 Compulsory School Attendance Enforcement and Dropout Prevention
53 and shall provide oversight to each school officer supervisor.

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



56 37-13-85. The Office of Compulsory School Attendance
57 Enforcement and Dropout Prevention shall have the following powers
58 and duties, in addition to all others imposed or granted by law:

59 (a) To establish any policies or guidelines concerning
60 the employment of school attendance officers which serve to
61 effectuate a uniform system of enforcement under the Mississippi
62 Compulsory School Attendance Law throughout the state * * *;

63 (b) To * * * provide oversight and assistance school
64 attendance officer supervisors in the performance of their duties;

65 (c) To establish minimum standards for enrollment and
66 attendance for the state and each individual school district, and
67 to monitor the success of the state and districts in achieving the
68 required levels of performance;

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

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

76 (f) To develop and implement a system under which
77 school districts are required to maintain accurate records that
78 document enrollment and attendance in such a manner that the
79 records reflect all changes in enrollment and attendance, and to
80 require school attendance officers to submit information



81 concerning public school attendance on a monthly basis to the
82 office;

83 (g) To prepare the form of the certificate of
84 enrollment required under the Mississippi Compulsory School
85 Attendance Law and to furnish a sufficient number of the
86 certificates of enrollment to each school attendance officer in
87 the state;

88 (h) To provide to the State Board of Education
89 statistical information concerning absenteeism, dropouts and other
90 attendance-related problems as requested by the State Board of
91 Education;

92 (i) To provide for the certification of school
93 attendance officers;

94 (j) To provide for a course of training and education
95 for school attendance officers, and to require successful
96 completion of the course as a prerequisite to certification by the
97 office as school attendance officers;

98 (k) To adopt any guidelines or policies the office
99 deems necessary to effectuate an orderly transition from the
100 supervision of school attendance officers by * * * the State
101 Department of Education to the supervision by the school
102 attendance officer supervisors and the local school district;

103 * * *



104 (* * *l) To adopt policies or guidelines linking the
105 duties of school attendance officers to the appropriate courts,
106 law enforcement agencies and community service providers; and

107 (* * *m) To adopt any other policies or guidelines
108 that the office deems necessary for the enforcement of the
109 Mississippi Compulsory School Attendance Law; however, the
110 policies or guidelines shall not add to or contradict with the
111 requirements of Section 37-13-91.

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

114 37-13-87. (1) * * * From and after July 1, 2023, the school
115 attendance officer supervisor positions shall no longer exist, and
116 those individuals currently employed by the executive director of
117 the Office of Compulsory School Attendance Enforcement and Dropout
118 Prevention shall transition to school attendance officer
119 positions, and shall be employed by the largest school district
120 within their respective Supreme Court Districts, but shall no
121 longer exercise direct supervision over other school attendance
122 officers.

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

125 37-13-89. (1) In each school district within the state,
126 there shall be employed the number of school attendance officers
127 determined by the local school district, in consultation with the
128 Office of Compulsory School Attendance Enforcement and Dropout



129 Prevention to be necessary to adequately enforce the provisions of
130 the Mississippi Compulsory School Attendance Law * * *. From and
131 after July 1, * * * 2023, all school attendance officers employed
132 pursuant to this section shall be employees of the * * * local
133 school district. * * * Local school districts shall employ all
134 persons employed as school attendance officers by * * * the State
135 Department of Education July 1, * * * 2023, and shall assign them
136 to school attendance responsibilities in the school district in
137 which they were employed before July 1, * * * 2023. * * *

138 (2) (a) The * * * local school district shall obtain
139 current criminal records background checks and current child abuse
140 registry checks on all persons applying for the position of school
141 attendance officer after July * * * 1, 2023. The criminal records
142 information and registry checks must be kept on file for any new
143 hires. In order to determine an applicant's suitability for
144 employment as a school attendance officer, the applicant must be
145 fingerprinted. If no disqualifying record is identified at the
146 state level, the Department of Public Safety shall forward the
147 fingerprints to the Federal Bureau of Investigation (FBI) for a
148 national criminal history record check. The applicant shall pay
149 the fee, not to exceed Fifty Dollars (\$50.00), for the
150 fingerprinting and criminal records background check; however,
151 the * * * local school district, in its discretion, may pay the
152 fee for the fingerprinting and criminal records background check
153 on behalf of any applicant. Under no circumstances may a member



154 of the * * * local school district board of trustees, employee of
155 the * * * local school district or any person other than the
156 subject of the criminal records background check disseminate
157 information received through any such checks except insofar as
158 required to fulfill the purposes of this subsection.

159 (b) If the fingerprinting or criminal records check
160 discloses a felony conviction, guilty plea or plea of nolo
161 contendere to a felony of possession or sale of drugs, murder,
162 manslaughter, armed robbery, rape, sexual battery, sex offense
163 listed in Section 45-33-23(h), child abuse, arson, grand larceny,
164 burglary, gratification of lust or aggravated assault which has
165 not been reversed on appeal or for which a pardon has not been
166 granted, the applicant is not eligible to be employed as a school
167 attendance officer. Any employment of an applicant pending the
168 results of the fingerprinting and criminal records check is
169 voidable if the new hire receives a disqualifying criminal records
170 check. However, the * * * local school board, in its discretion,
171 may allow an applicant aggrieved by an employment decision under
172 this subsection to appear before the board, or before a hearing
173 officer designated for that purpose, to show mitigating
174 circumstances that may exist and allow the new hire to be employed
175 as a school attendance officer. The * * * local school board may
176 grant waivers for mitigating circumstances, which may include, but
177 are not necessarily limited to: (i) age at which the crime was
178 committed; (ii) circumstances surrounding the crime; (iii) length



179 of time since the conviction and criminal history since the
180 conviction; (iv) work history; (v) current employment and
181 character references; and (vi) other evidence demonstrating the
182 ability of the person to perform the responsibilities of a school
183 attendance officer competently and that the person does not pose a
184 threat to the health or safety of children.

185 (c) A member of the * * * local school board or
186 employee of the * * * local school district may not be held liable
187 in any employment discrimination suit in which an allegation of
188 discrimination is made regarding an employment decision authorized
189 under this section.

190 (3) Each school attendance officer shall possess a college
191 degree with a major in a behavioral science or a related field or
192 shall have no less than three (3) years combined actual experience
193 as a school teacher, school administrator, law enforcement officer
194 possessing such degree, and/or social worker; however, these
195 requirements shall not apply to persons employed as school
196 attendance officers before January 1, 1987. * * *

197 (4) It shall be the duty of each school attendance officer
198 to:

199 (a) Cooperate with any public agency to locate and
200 identify all compulsory-school-age children who are not attending
201 school;

202 (b) Cooperate with all courts of competent
203 jurisdiction;



204 (c) Investigate all cases of nonattendance and unlawful
205 absences by compulsory-school-age children not enrolled in a
206 nonpublic school;

207 (d) Provide appropriate counseling to encourage all
208 school-age children to attend school until they have completed
209 high school;

210 (e) Attempt to secure the provision of social or
211 welfare services that may be required to enable any child to
212 attend school;

213 (f) Contact the home or place of residence of a
214 compulsory-school-age child and any other place in which the
215 officer is likely to find any compulsory-school-age child when the
216 child is absent from school during school hours without a valid
217 written excuse from school officials, and when the child is found,
218 the officer shall notify the parents and school officials as to
219 where the child was physically located;

220 (g) Contact promptly the home of each
221 compulsory-school-age child in the school district within the
222 officer's jurisdiction who is not enrolled in school or is not in
223 attendance at public school and is without a valid written excuse
224 from school officials; if no valid reason is found for the
225 nonenrollment or absence from the school, the school attendance
226 officer shall give written notice to the parent, guardian or
227 custodian of the requirement for the child's enrollment or
228 attendance;



229 (h) Collect and maintain information concerning
230 absenteeism, dropouts and other attendance-related problems, as
231 may be required by law or the Office of Compulsory School
232 Attendance Enforcement; and

233 (i) Perform all other duties relating to compulsory
234 school attendance established by the State Department of Education
235 or district school attendance supervisor, or both.

236 (5) While engaged in the performance of his duties, each
237 school attendance officer shall carry on his person a badge
238 identifying him as a school attendance officer under the Office of
239 Compulsory School Attendance Enforcement * * * and Dropout
240 Prevention and issued by the school attendance officer supervisor.
241 Neither the badge nor the identification card shall bear the name
242 of any elected public official.

243 (6) The * * * salary scale for school attendance
244 officers * * * shall be based upon factors including, but not
245 limited to, education, professional certification and licensure,
246 and number of years of experience. School attendance officers
247 shall be paid in accordance with this salary scale. The minimum
248 salaries under the scale shall be no less than the following:

249 (a) For school attendance officers holding a bachelor's
250 degree or any other attendance officer who does not hold such a
251 degree, the annual salary shall be based on years of experience as
252 a school attendance officer or related field of service or
253 employment, no less than as follows:



254	Years of Experience	Salary
255	0 - 4 years	\$24,528.29
256	5 - 8 years	26,485.29
257	9 - 12 years	28,050.89
258	13 - 16 years	29,616.49
259	Over 17 years	31,182.09

260 (b) For school attendance officers holding a license as
261 a social worker, the annual salary shall be based on years of
262 experience as a school attendance officer or related field of
263 service or employment, no less than as follows:

264	Years of Experience	Salary
265	0 - 4 years	\$25,558.29
266	5 - 8 years	27,927.29
267	9 - 12 years	29,822.49
268	13 - 16 years	31,717.69
269	17 - 20 years	33,612.89
270	Over 21 years	35,415.39

271 (c) For school attendance officers holding a master's
272 degree in a behavioral science or a related field, the annual
273 salary shall be based on years of experience as a school
274 attendance officer or related field of service or employment, no
275 less than as follows:

276	Years of Experience	Salary
277	0 - 4 years	\$26,382.29
278	5 - 8 years	29,008.79



279	9 - 12 years	31,109.99
280	13 - 16 years	33,211.19
281	17 - 20 years	35,312.39
282	Over 21 years	37,413.59

283 (7) * * * Each school attendance officer employed by the
284 State Department of Education on June 30, 2023, shall be
285 transferred from state services under that authority of the State
286 Personnel Board to employment status as employees of their
287 respective school district. The State Board of Education may set
288 and determine qualifications necessary for such employees. Each
289 school attendance officer will have a work location within the
290 school district they serve. Each school attendance officer who
291 became an employee of the local school district on July 1, 2023,
292 shall have no interruption of service with the Public Employees'
293 Retirement System and the State and School Employees' Health
294 Insurance Plan for school attendance officers and school
295 attendance officer supervisors. Any unused leave accumulated in
296 state-service employment with the State Department of Education
297 shall be transferred in accordance with the provisions of Section
298 37-7-307, unless otherwise provided. * * *

299 (8) * * * School attendance officers shall maintain regular
300 office hours on a year-round basis; however, during the school
301 term, on those days that teachers in all of the school districts
302 served by a school attendance officer are not required to report
303 to work, the school attendance officer also shall not be required



304 to report to work. (For purposes of this subsection, a school
305 district's school term is that period of time identified as the
306 school term in contracts entered into by the district with
307 licensed personnel.) A school attendance officer shall be
308 required to report to work on any day recognized as an official
309 state holiday if teachers in any school district served by that
310 school attendance officer are required to report to work on that
311 day * * *. However, a school attendance officer may be allowed by
312 the school attendance officer's supervisor to use earned leave on
313 such days.

314 * * *

315 (9) The State Department of Education shall provide all
316 continuing education and training courses that school attendance
317 officers are required to complete under state law or rules and
318 regulations of the department.

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

321 37-13-91. (1) This section shall be referred to as the
322 "Mississippi Compulsory School Attendance Law."

323 (2) The following terms as used in this section are defined
324 as follows:

325 (a) "Parent" means the father or mother to whom a child
326 has been born, or the father or mother by whom a child has been
327 legally adopted.



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

331 (c) "Custodian" means any person having the present
332 care or custody of a child, other than a parent or guardian of the
333 child.

334 (d) "School day" means not less than five and one-half
335 (5-1/2) and not more than eight (8) hours of actual teaching in
336 which both teachers and pupils are in regular attendance for
337 scheduled schoolwork.

338 (e) "School" means any public school, including a
339 charter school, in this state or any nonpublic school in this
340 state which is in session each school year for at least one
341 hundred eighty (180) school days, except that the "nonpublic"
342 school term shall be the number of days that each school shall
343 require for promotion from grade to grade.

344 (f) "Compulsory-school-age child" means a child who has
345 attained or will attain the age of six (6) years on or before
346 September 1 of the calendar year and who has not attained the age
347 of seventeen (17) years on or before September 1 of the calendar
348 year; and shall include any child who has attained or will attain
349 the age of five (5) years on or before September 1 and has
350 enrolled in a full-day public school kindergarten program.



351 (g) "School attendance officer" means a person employed
352 by a local school district, wherein the received oversight from
353 the State Department of Education * * *.

354 (h) "School attendance officer supervisor" refers to
355 the three (3) regional supervisors that provided direct oversight
356 for each school attendance officer in their assigned geographical
357 region. Each school attendance officer supervisor shall be
358 employed by the largest school district in their region, and shall
359 have a work location within that school district.

360 (* * *i) "Appropriate school official" means the
361 superintendent of the school district, or his designee, or, in the
362 case of a nonpublic school, the principal or the headmaster.

363 (* * *j) "Nonpublic school" means an institution for
364 the teaching of children, consisting of a physical plant, whether
365 owned or leased, including a home, instructional staff members and
366 students, and which is in session each school year. This
367 definition shall include, but not be limited to, private, church,
368 parochial and home instruction programs.

369 (3) A parent, guardian or custodian of a
370 compulsory-school-age child in this state shall cause the child to
371 enroll in and attend a public school or legitimate nonpublic
372 school for the period of time that the child is of compulsory
373 school age, except under the following circumstances:

374 (a) When a compulsory-school-age child is physically,
375 mentally or emotionally incapable of attending school as



376 determined by the appropriate school official based upon
377 sufficient medical documentation.

378 (b) When a compulsory-school-age child is enrolled in
379 and pursuing a course of special education, remedial education or
380 education for handicapped or physically or mentally disadvantaged
381 children.

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

384 The parent, guardian or custodian of a compulsory-school-age
385 child described in this subsection, or the parent, guardian or
386 custodian of a compulsory-school-age child attending any charter
387 school or nonpublic school, or the appropriate school official for
388 any or all children attending a charter school or nonpublic school
389 shall complete a "certificate of enrollment" in order to
390 facilitate the administration of this section.

391 The form of the certificate of enrollment shall be prepared
392 by the Office of Compulsory School Attendance Enforcement of the
393 State Department of Education and shall be designed to obtain the
394 following information only:

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

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

399 (iii) A simple description of the type of
400 education the compulsory-school-age child is receiving and, if the



401 child is enrolled in a nonpublic school, the name and address of
402 the school; and

403 (iv) The signature of the parent, guardian or
404 custodian of the compulsory-school-age child or, for any or all
405 compulsory-school-age child or children attending a charter school
406 or nonpublic school, the signature of the appropriate school
407 official and the date signed.

408 The certificate of enrollment shall be returned to the school
409 attendance officer where the child resides on or before September
410 15 of each year. Any parent, guardian or custodian found by the
411 school attendance officer to be in noncompliance with this section
412 shall comply, after written notice of the noncompliance by the
413 school attendance officer, with this subsection within ten (10)
414 days after the notice or be in violation of this section.

415 However, in the event the child has been enrolled in a public
416 school within fifteen (15) calendar days after the first day of
417 the school year as required in subsection (6), the parent or
418 custodian may, at a later date, enroll the child in a legitimate
419 nonpublic school or legitimate home instruction program and send
420 the certificate of enrollment to the school attendance officer and
421 be in compliance with this subsection.

422 For the purposes of this subsection, a legitimate nonpublic
423 school or legitimate home instruction program shall be those not
424 operated or instituted for the purpose of avoiding or
425 circumventing the compulsory attendance law.



426 (4) An "unlawful absence" is an absence for an entire school
427 day or during part of a school day by a compulsory-school-age
428 child, which absence is not due to a valid excuse for temporary
429 nonattendance. For purposes of reporting absenteeism under
430 subsection (6) of this section, if a compulsory-school-age child
431 has an absence that is more than thirty-seven percent (37%) of the
432 instructional day, as fixed by the school board for the school at
433 which the compulsory-school-age child is enrolled, the child must
434 be considered absent the entire school day. Days missed from
435 school due to disciplinary suspension shall not be considered an
436 "excused" absence under this section. This subsection shall not
437 apply to children enrolled in a nonpublic school.

438 Each of the following shall constitute a valid excuse for
439 temporary nonattendance of a compulsory-school-age child enrolled
440 in a noncharter public school, provided satisfactory evidence of
441 the excuse is provided to the superintendent of the school
442 district, or his designee:

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



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

452 (c) An absence is excused when isolation of a
453 compulsory-school-age child is ordered by the county health
454 officer, by the State Board of Health or appropriate school
455 official.

456 (d) An absence is excused when it results from the
457 death or serious illness of a member of the immediate family of a
458 compulsory-school-age child. The immediate family members of a
459 compulsory-school-age child shall include children, spouse,
460 grandparents, parents, brothers and sisters, including
461 stepbrothers and stepsisters.

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

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

468 (g) An absence may be excused if the religion to which
469 the compulsory-school-age child or the child's parents adheres,
470 requires or suggests the observance of a religious event. The
471 approval of the absence is within the discretion of the
472 superintendent of the school district, or his designee, but



473 approval should be granted unless the religion's observance is of
474 such duration as to interfere with the education of the child.

475 (h) An absence may be excused when it is demonstrated
476 to the satisfaction of the superintendent of the school district,
477 or his designee, that the purpose of the absence is to take
478 advantage of a valid educational opportunity such as travel,
479 including vacations or other family travel. Approval of the
480 absence must be gained from the superintendent of the school
481 district, or his designee, before the absence, but the approval
482 shall not be unreasonably withheld.

483 (i) An absence may be excused when it is demonstrated
484 to the satisfaction of the superintendent of the school district,
485 or his designee, that conditions are sufficient to warrant the
486 compulsory-school-age child's nonattendance. However, no absences
487 shall be excused by the school district superintendent, or his
488 designee, when any student suspensions or expulsions circumvent
489 the intent and spirit of the compulsory attendance law.

490 (j) An absence is excused when it results from the
491 attendance of a compulsory-school-age child participating in
492 official organized events sponsored by the 4-H or Future Farmers
493 of America (FFA). The excuse for the 4-H or FFA event must be
494 provided in writing to the appropriate school superintendent by
495 the Extension Agent or High School Agricultural Instructor/FFA
496 Advisor.



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

501 (5) Any parent, guardian or custodian of a
502 compulsory-school-age child subject to this section who refuses or
503 willfully fails to perform any of the duties imposed upon him or
504 her under this section or who intentionally falsifies any
505 information required to be contained in a certificate of
506 enrollment, shall be guilty of contributing to the neglect of a
507 child and, upon conviction, shall be punished in accordance with
508 Section 97-5-39.

509 Upon prosecution of a parent, guardian or custodian of a
510 compulsory-school-age child for violation of this section, the
511 presentation of evidence by the prosecutor that shows that the
512 child has not been enrolled in school within eighteen (18)
513 calendar days after the first day of the school year of the public
514 school which the child is eligible to attend, or that the child
515 has accumulated twelve (12) unlawful absences during the school
516 year at the public school in which the child has been enrolled,
517 shall establish a prima facie case that the child's parent,
518 guardian or custodian is responsible for the absences and has
519 refused or willfully failed to perform the duties imposed upon him
520 or her under this section. However, no proceedings under this
521 section shall be brought against a parent, guardian or custodian



522 of a compulsory-school-age child unless the school attendance
523 officer has contacted promptly the home of the child and has
524 provided written notice to the parent, guardian or custodian of
525 the requirement for the child's enrollment or attendance.

526 (6) If a compulsory-school-age child has not been enrolled
527 in a school within fifteen (15) calendar days after the first day
528 of the school year of the school which the child is eligible to
529 attend or the child has accumulated five (5) unlawful absences
530 during the school year of the public school in which the child is
531 enrolled, the school district superintendent, or his designee,
532 shall report, within * * * five (5) school days * * *, the
533 absences to the school attendance officer. The State Department
534 of Education shall prescribe a uniform method for schools to
535 utilize in reporting the unlawful absences to the school
536 attendance officer. The superintendent, or his designee, also
537 shall report any student suspensions or student expulsions to the
538 school attendance officer when they occur.

539 (7) When a school attendance officer has made all attempts
540 to secure enrollment and/or attendance of a compulsory-school-age
541 child and is unable to effect the enrollment and/or attendance,
542 the attendance officer shall file a petition with the youth court
543 under Section 43-21-451 or shall file a petition in a court of
544 competent jurisdiction as it pertains to parent or child.
545 Sheriffs, deputy sheriffs and municipal law enforcement officers
546 shall be fully authorized to investigate all cases of



547 nonattendance and unlawful absences by compulsory-school-age
548 children, and shall be authorized to file a petition with the
549 youth court under Section 43-21-451 or file a petition or
550 information in the court of competent jurisdiction as it pertains
551 to parent or child for violation of this section. The youth court
552 shall expedite a hearing to make an appropriate adjudication and a
553 disposition to ensure compliance with the Compulsory School
554 Attendance Law, and may order the child to enroll or re-enroll in
555 school. The superintendent of the school district to which the
556 child is ordered may assign, in his discretion, the child to the
557 alternative school program of the school established pursuant to
558 Section 37-13-92.

559 (8) The State Board of Education shall adopt rules and
560 regulations * * * to sanction school districts that do not adhere
561 to the policy through findings of noncompliance based on the
562 monitoring process.

563 (9) Notwithstanding any provision or implication herein to
564 the contrary, it is not the intention of this section to impair
565 the primary right and the obligation of the parent or parents, or
566 person or persons in loco parentis to a child, to choose the
567 proper education and training for such child, and nothing in this
568 section shall ever be construed to grant, by implication or
569 otherwise, to the State of Mississippi, any of its officers,
570 agencies or subdivisions any right or authority to control,
571 manage, supervise or make any suggestion as to the control,



572 management or supervision of any private or parochial school or
573 institution for the education or training of children, of any kind
574 whatsoever that is not a public school according to the laws of
575 this state; and this section shall never be construed so as to
576 grant, by implication or otherwise, any right or authority to any
577 state agency or other entity to control, manage, supervise,
578 provide for or affect the operation, management, program,
579 curriculum, admissions policy or discipline of any such school or
580 home instruction program.

581 **SECTION 7.** Section 37-7-307, Mississippi Code of 1972, is
582 brought forward as follows:

583 37-7-307. (1) For purposes of this section, the term
584 "licensed employee" means any employee of a public school district
585 required to hold a valid license by the Commission on Teacher and
586 Administrator Education, Certification and Licensure and
587 Development.

588 (2) The school board of a school district shall establish by
589 rules and regulations a policy of sick leave with pay for licensed
590 employees and teacher assistants employed in the school district,
591 and such policy shall include the following minimum provisions for
592 sick and emergency leave with pay:

593 (a) Each licensed employee and teacher assistant, at
594 the beginning of each school year, shall be credited with a
595 minimum sick leave allowance, with pay, of seven (7) days for



596 absences caused by illness or physical disability of the employee
597 during that school year.

598 (b) Any unused portion of the total sick leave
599 allowance shall be carried over to the next school year and
600 credited to such licensed employee and teacher assistant if the
601 licensed employee or teacher assistant remains employed in the
602 same school district. In the event any public school licensed
603 employee or teacher assistant transfers from one public school
604 district in Mississippi to another, any unused portion of the
605 total sick leave allowance credited to such licensed employee or
606 teacher assistant shall be credited to such licensed employee or
607 teacher assistant in the computation of unused leave for
608 retirement purposes under Section 25-11-109. Accumulation of sick
609 leave allowed under this section shall be unlimited.

610 (c) No deduction from the pay of such licensed employee
611 or teacher assistant may be made because of absence of such
612 licensed employee or teacher assistant caused by illness or
613 physical disability of the licensed employee or teacher assistant
614 until after all sick leave allowance credited to such licensed
615 employee or teacher assistant has been used.

616 (d) For the first ten (10) days of absence of a
617 licensed employee because of illness or physical disability, in
618 any school year, in excess of the sick leave allowance credited to
619 such licensed employee, there shall be deducted from the pay of
620 such licensed employee the established substitute amount of



621 licensed employee compensation paid in that local school district,
622 necessitated because of the absence of the licensed employee as a
623 result of illness or physical disability. In lieu of deducting
624 the established substitute amount from the pay of such licensed
625 employee, the policy may allow the licensed employee to receive
626 full pay for the first ten (10) days of absence because of illness
627 or physical disability, in any school year, in excess of the sick
628 leave allowance credited to such licensed employee. Thereafter,
629 the regular pay of such absent licensed employee shall be
630 suspended and withheld in its entirety for any period of absence
631 because of illness or physical disability during that school year.

632 (3) (a) Beginning with the school year 1983-1984, each
633 licensed employee at the beginning of each school year shall be
634 credited with a minimum personal leave allowance, with pay, of two
635 (2) days for absences caused by personal reasons during that
636 school year. Effective for the 2010-2011 and 2011-2012 school
637 years, licensed employees shall be credited with an additional
638 one-half (1/2) day of personal leave for every day the licensed
639 employee is furloughed without pay as provided in Section
640 37-7-308. Except as otherwise provided in paragraph (b) of this
641 subsection, such personal leave shall not be taken on the first
642 day of the school term, the last day of the school term, on a day
643 previous to a holiday or a day after a holiday. Personal leave
644 may be used for professional purposes, including absences caused
645 by attendance of such licensed employee at a seminar, class,



646 training program, professional association or other functions
647 designed for educators. No deduction from the pay of such
648 licensed employee may be made because of absence of such licensed
649 employee caused by personal reasons until after all personal leave
650 allowance credited to such licensed employee has been used.
651 However, the superintendent of a school district, in his
652 discretion, may allow a licensed employee personal leave in
653 addition to any minimum personal leave allowance, under the
654 condition that there shall be deducted from the salary of such
655 licensed employee the actual amount of any compensation paid to
656 any person as a substitute, necessitated because of the absence of
657 the licensed employee. Any unused portion of the total personal
658 leave allowance up to five (5) days shall be carried over to the
659 next school year and credited to such licensed employee if the
660 licensed employee remains employed in the same school district.
661 Any personal leave allowed for a furlough day shall not be carried
662 over to the next school year.

663 (b) Notwithstanding the restrictions on the use of
664 personal leave prescribed under paragraph (a) of this subsection,
665 a licensed employee may use personal leave as follows:

666 (i) Personal leave may be taken on the first day
667 of the school term, the last day of the school term, on a day
668 previous to a holiday or a day after a holiday if, on the
669 applicable day, an immediate family member of the employee is
670 being deployed for military service.



671 (ii) Personal leave may be taken on a day previous
672 to a holiday or a day after a holiday if an employee of a school
673 district has either a minimum of ten (10) years' experience as an
674 employee of that school district or a minimum of thirty (30) days
675 of unused accumulated leave that has been earned while employed in
676 that school district.

677 (iii) Personal leave may be taken on the first day
678 of the school term, the last day of the school term, on a day
679 previous to a holiday or a day after a holiday if, on the
680 applicable day, the employee has been summoned to appear for jury
681 duty or as a witness in court.

682 (iv) Personal leave may be taken on the first day
683 of the school term, the last day of the school term, on a day
684 previous to a holiday or a day after a holiday if, on the
685 applicable day, an immediate family member of the employee dies or
686 funeral services are held. Any day of the three (3) bereavement
687 days may be used at the discretion of the teacher, and are not
688 required to be taken in consecutive succession.

689 For the purpose of this subsection (3), the term "immediate
690 family member" means spouse, parent, stepparent, child or
691 stepchild, grandparent or sibling, including a stepbrother or
692 stepsister.

693 (4) Beginning with the school year 1992-1993, each licensed
694 employee shall be credited with a professional leave allowance,
695 with pay, for each day of absence caused by reason of such



696 employee's statutorily required membership and attendance at a
697 regular or special meeting held within the State of Mississippi of
698 the State Board of Education, the Commission on Teacher and
699 Administrator Education, Certification and Licensure and
700 Development, the Commission on School Accreditation, the
701 Mississippi Authority for Educational Television, the meetings of
702 the state textbook rating committees or other meetings authorized
703 by local school board policy.

704 (5) Upon retirement from employment, each licensed and
705 nonlicensed employee shall be paid for not more than thirty (30)
706 days of unused accumulated leave earned while employed by the
707 school district in which the employee is last employed. Such
708 payment for licensed employees shall be made by the school
709 district at a rate equal to the amount paid to substitute teachers
710 and for nonlicensed employees, the payment shall be made by the
711 school district at a rate equal to the federal minimum wage. The
712 payment shall be treated in the same manner for retirement
713 purposes as a lump-sum payment for personal leave as provided in
714 Section 25-11-103(f). Any remaining lawfully credited unused
715 leave, for which payment has not been made, shall be certified to
716 the Public Employees' Retirement System in the same manner and
717 subject to the same limitations as otherwise provided by law for
718 unused leave. No payment for unused accumulated leave may be made
719 to either a licensed or nonlicensed employee at termination or



720 separation from service for any purpose other than for the purpose
721 of retirement.

722 (6) The school board may adopt rules and regulations which
723 will reasonably aid to implement the policy of sick and personal
724 leave, including, but not limited to, rules and regulations having
725 the following general effect:

726 (a) Requiring the absent employee to furnish the
727 certificate of a physician or dentist or other medical
728 practitioner as to the illness of the absent licensed employee,
729 where the absence is for four (4) or more consecutive school days,
730 or for two (2) consecutive school days immediately preceding or
731 following a nonschool day;

732 (b) Providing penalties, by way of full deduction from
733 salary, or entry on the work record of the employee, or other
734 appropriate penalties, for any materially false statement by the
735 employee as to the cause of absence;

736 (c) Forfeiture of accumulated or future sick leave, if
737 the absence of the employee is caused by optional dental or
738 medical treatment or surgery which could, without medical risk,
739 have been provided, furnished or performed at a time when school
740 was not in session;

741 (d) Enlarging, increasing or providing greater sick or
742 personal leave allowances than the minimum standards established
743 by this section in the discretion of the school board of each
744 school district.



745 (7) School boards may include in their budgets provisions
746 for the payment of substitute employees, necessitated because of
747 the absence of regular licensed employees. All such substitute
748 employees shall be paid wholly from district funds, except as
749 otherwise provided for long-term substitute teachers in Section
750 37-19-20. Such school boards, in their discretion, also may pay,
751 from district funds other than adequate education program funds,
752 the whole or any part of the salaries of all employees granted
753 leaves for the purpose of special studies or training.

754 (8) The school board may further adopt rules and regulations
755 which will reasonably implement such leave policies for all other
756 nonlicensed and hourly paid school employees as the board deems
757 appropriate. Effective for the 2010-2011 and 2011-2012 school
758 years, nonlicensed employees shall be credited with an additional
759 one-half (1/2) day of personal leave for every day the nonlicensed
760 employee is furloughed without pay as provided in Section
761 37-7-308.

762 (9) Vacation leave granted to either licensed or nonlicensed
763 employees shall be synonymous with personal leave. Unused
764 vacation or personal leave accumulated by licensed employees in
765 excess of the maximum five (5) days which may be carried over from
766 one year to the next may be converted to sick leave. The annual
767 conversion of unused vacation or personal leave to sick days for
768 licensed or unlicensed employees shall not exceed the allowable
769 number of personal leave days as provided in Section 25-3-93. The



770 annual total number of converted unused vacation and/or personal
771 days added to the annual unused sick days for any employee shall
772 not exceed the combined allowable number of days per year provided
773 in Sections 25-3-93 and 25-3-95. Local school board policies that
774 provide for vacation, personal and sick leave for employees shall
775 not exceed the provisions for leave as provided in Sections
776 25-3-93 and 25-3-95. Any personal or vacation leave previously
777 converted to sick leave under a lawfully adopted policy before May
778 1, 2004, or such personal or vacation leave accumulated and
779 available for use prior to May 1, 2004, under a lawfully adopted
780 policy but converted to sick leave after May 1, 2004, shall be
781 recognized as accrued leave by the local school district and
782 available for use by the employee. The leave converted under a
783 lawfully adopted policy prior to May 1, 2004, or such personal and
784 vacation leave accumulated and available for use as of May 1,
785 2004, which was subsequently converted to sick leave may be
786 certified to the Public Employees' Retirement System upon
787 termination of employment and any such leave previously converted
788 and certified to the Public Employees' Retirement System shall be
789 recognized.

790 (10) (a) For the purposes of this subsection, the following
791 words and phrases shall have the meaning ascribed in this
792 paragraph unless the context requires otherwise:

793 (i) "Catastrophic injury or illness" means a
794 life-threatening injury or illness of an employee or a member of



795 an employee's immediate family that totally incapacitates the
796 employee from work, as verified by a licensed physician, and
797 forces the employee to exhaust all leave time earned by that
798 employee, resulting in the loss of compensation from the local
799 school district for the employee. Conditions that are short-term
800 in nature, including, but not limited to, common illnesses such as
801 influenza and the measles, and common injuries, are not
802 catastrophic. Chronic illnesses or injuries, such as cancer or
803 major surgery, that result in intermittent absences from work and
804 that are long-term in nature and require long recuperation periods
805 may be considered catastrophic.

806 (ii) "Immediate family" means spouse, parent,
807 stepparent, sibling, child or stepchild, grandparent, stepbrother
808 or stepsister.

809 (b) Any school district employee may donate a portion
810 of his or her unused accumulated personal leave or sick leave to
811 another employee of the same school district who is suffering from
812 a catastrophic injury or illness or who has a member of his or her
813 immediate family suffering from a catastrophic injury or illness,
814 in accordance with the following:

815 (i) The employee donating the leave (the "donor
816 employee") shall designate the employee who is to receive the
817 leave (the "recipient employee") and the amount of unused
818 accumulated personal leave and sick leave that is to be donated,



819 and shall notify the school district superintendent or his
820 designee of his or her designation.

821 (ii) The maximum amount of unused accumulated
822 personal leave that an employee may donate to any other employee
823 may not exceed a number of days that would leave the donor
824 employee with fewer than seven (7) days of personal leave
825 remaining, and the maximum amount of unused accumulated sick leave
826 that an employee may donate to any other employee may not exceed
827 fifty percent (50%) of the unused accumulated sick leave of the
828 donor employee.

829 (iii) An employee must have exhausted all of his
830 or her available leave before he or she will be eligible to
831 receive any leave donated by another employee. Eligibility for
832 donated leave shall be based upon review and approval by the donor
833 employee's supervisor.

834 (iv) Before an employee may receive donated leave,
835 he or she must provide the school district superintendent or his
836 designee with a physician's statement that states that the illness
837 meets the catastrophic criteria established under this section,
838 the beginning date of the catastrophic injury or illness, a
839 description of the injury or illness, and a prognosis for recovery
840 and the anticipated date that the recipient employee will be able
841 to return to work.

842 (v) Before an employee may receive donated leave,
843 the superintendent of education of the school district shall



844 appoint a review committee to approve or disapprove the said
845 donations of leave, including the determination that the illness
846 is catastrophic within the meaning of this section.

847 (vi) If the total amount of leave that is donated
848 to any employee is not used by the recipient employee, the whole
849 days of donated leave shall be returned to the donor employees on
850 a pro rata basis, based on the ratio of the number of days of
851 leave donated by each donor employee to the total number of days
852 of leave donated by all donor employees.

853 (vii) Donated leave shall not be used in lieu of
854 disability retirement.

855 (11) Effective January 1, 2020, the provisions of this
856 section shall be fully applicable to any licensed employee of the
857 Mississippi School of the Arts (MSA).

858 **SECTION 8.** Section 37-9-17, Mississippi Code of 1972, is
859 brought forward as follows:

860 37-9-17. (1) On or before April 1 of each year, the
861 principal of each school shall recommend to the superintendent of
862 the local school district the licensed employees or
863 noninstructional employees to be employed for the school involved
864 except those licensed employees or noninstructional employees who
865 have been previously employed and who have a contract valid for
866 the ensuing scholastic year. If such recommendations meet with
867 the approval of the superintendent, the superintendent shall
868 recommend the employment of such licensed employees or



869 noninstructional employees to the local school board, and, unless
870 good reason to the contrary exists, the board shall elect the
871 employees so recommended. If, for any reason, the local school
872 board shall decline to elect any employee so recommended,
873 additional recommendations for the places to be filled shall be
874 made by the principal to the superintendent and then by the
875 superintendent to the local school board as provided above. The
876 school board of any local school district shall be authorized to
877 designate a personnel supervisor or another principal employed by
878 the school district to recommend to the superintendent licensed
879 employees or noninstructional employees; however, this
880 authorization shall be restricted to no more than two (2)
881 positions for each employment period for each school in the local
882 school district. Any noninstructional employee employed upon the
883 recommendation of a personnel supervisor or another principal
884 employed by the local school district must have been employed by
885 the local school district at the time the superintendent was
886 elected or appointed to office; a noninstructional employee
887 employed under this authorization may not be paid compensation in
888 excess of the statewide average compensation for such
889 noninstructional position with comparable experience, as
890 established by the State Department of Education. The school
891 board of any local school district shall be authorized to
892 designate a personnel supervisor or another principal employed by
893 the school district to accept the recommendations of principals or



894 their designees for licensed employees or noninstructional
895 employees and to transmit approved recommendations to the local
896 school board; however, this authorization shall be restricted to
897 no more than two (2) positions for each employment period for each
898 school in the local school district.

899 When the licensed employees have been elected as provided in
900 the preceding paragraph, the superintendent of the district shall
901 enter into a contract with such persons in the manner provided in
902 this chapter.

903 If, at the commencement of the scholastic year, any licensed
904 employee shall present to the superintendent a license of a higher
905 grade than that specified in such individual's contract, such
906 individual may, if funds are available from adequate education
907 program funds of the district, or from district funds, be paid
908 from such funds the amount to which such higher grade license
909 would have entitled the individual, had the license been held at
910 the time the contract was executed.

911 (2) Superintendents/directors of schools under the purview
912 of the State Board of Education, the superintendent of the local
913 school district and any private firm under contract with the local
914 public school district to provide substitute teachers to teach
915 during the absence of a regularly employed schoolteacher shall
916 require, through the appropriate governmental authority, that
917 current criminal records background checks and current child abuse
918 registry checks are obtained, and that such criminal record



919 information and registry checks are on file for any new hires
920 applying for employment as a licensed or nonlicensed employee at a
921 school and not previously employed in such school under the
922 purview of the State Board of Education or at such local school
923 district prior to July 1, 2000. In order to determine the
924 applicant's suitability for employment, the applicant shall be
925 fingerprinted. If no disqualifying record is identified at the
926 state level, the fingerprints shall be forwarded by the Department
927 of Public Safety to the Federal Bureau of Investigation for a
928 national criminal history record check. The fee for such
929 fingerprinting and criminal history record check shall be paid by
930 the applicant, not to exceed Fifty Dollars (\$50.00); however, the
931 State Board of Education, the school board of the local school
932 district or a private firm under contract with a local school
933 district to provide substitute teachers to teach during the
934 temporary absence of the regularly employed schoolteacher, in its
935 discretion, may elect to pay the fee for the fingerprinting and
936 criminal history record check on behalf of any applicant. Under
937 no circumstances shall a member of the State Board of Education,
938 superintendent/director of schools under the purview of the State
939 Board of Education, local school district superintendent, local
940 school board member or any individual other than the subject of
941 the criminal history record checks disseminate information
942 received through any such checks except insofar as required to
943 fulfill the purposes of this section. Any nonpublic school which



944 is accredited or approved by the State Board of Education may
945 avail itself of the procedures provided for herein and shall be
946 responsible for the same fee charged in the case of local public
947 schools of this state. The determination whether the applicant
948 has a disqualifying crime, as set forth in subsection (3) of this
949 section, shall be made by the appropriate governmental authority,
950 and the appropriate governmental authority shall notify the
951 private firm whether a disqualifying crime exists.

952 (3) If such fingerprinting or criminal record checks
953 disclose a felony conviction, guilty plea or plea of nolo
954 contendere to a felony of possession or sale of drugs, murder,
955 manslaughter, armed robbery, rape, sexual battery, sex offense
956 listed in Section 45-33-23(h), child abuse, arson, grand larceny,
957 burglary, gratification of lust or aggravated assault which has
958 not been reversed on appeal or for which a pardon has not been
959 granted, the new hire shall not be eligible to be employed at such
960 school. Any employment contract for a new hire executed by the
961 superintendent of the local school district or any employment of a
962 new hire by a superintendent/director of a new school under the
963 purview of the State Board of Education or by a private firm shall
964 be voidable if the new hire receives a disqualifying criminal
965 record check. However, the State Board of Education or the school
966 board may, in its discretion, allow any applicant aggrieved by the
967 employment decision under this section to appear before the
968 respective board, or before a hearing officer designated for such



969 purpose, to show mitigating circumstances which may exist and
970 allow the new hire to be employed at the school. The State Board
971 of Education or local school board may grant waivers for such
972 mitigating circumstances, which shall include, but not be limited
973 to: (a) age at which the crime was committed; (b) circumstances
974 surrounding the crime; (c) length of time since the conviction and
975 criminal history since the conviction; (d) work history; (e)
976 current employment and character references; (f) other evidence
977 demonstrating the ability of the person to perform the employment
978 responsibilities competently and that the person does not pose a
979 threat to the health or safety of the children at the school.

980 (4) No local school district, local school district
981 employee, member of the State Board of Education or employee of a
982 school under the purview of the State Board of Education shall be
983 held liable in any employment discrimination suit in which an
984 allegation of discrimination is made regarding an employment
985 decision authorized under this Section 37-9-17.

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

989 **SECTION 9.** This act shall take effect and be in force from
990 and after July 1, 2023.

