

By: Representative Scott

To: Education

HOUSE BILL NO. 1457

1 AN ACT TO REQUIRE CHILDREN WHO ARE YOUNGER THAN 18 YEARS OLD
 2 TO TAKE THE ACT ASSESSMENT PRIOR TO DROPPING OUT OF SCHOOL; TO
 3 PROVIDE THAT IF THE CHILD CANNOT ATTAIN A CERTAIN ACT SCORE THEY
 4 SHALL BE INCLUDED IN THE COMPULSORY SCHOOL ATTENDANCE LAW UNTIL
 5 THEY REACH 18 YEARS OF AGE; TO PROVIDE PENALTIES FOR THE PARENTS
 6 OF CHILDREN WHO ARE REQUIRED TO ATTEND SCHOOL UNTIL REACHING 18
 7 YEARS OF AGE AND MISS A CERTAIN NUMBER OF CONSECUTIVE DAYS; TO
 8 AMEND SECTION 37-13-91, MISSISSIPPI CODE OF 1972, IN CONFORMITY
 9 THERETO; AND FOR RELATED PURPOSES.

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

11 **SECTION 1.** Any child under the age of eighteen (18) years of
 12 age who chooses to drop out of school shall first take the
 13 American College Testing (ACT) test. It is the responsibility of
 14 the school attendance officer of the district where the child
 15 resides to ensure that a child who chooses to drop out of school
 16 takes the ACT. If such child fails to attain a score of
 17 twenty-one (21) on the test, or a score of eighteen (18) in the
 18 case of a child who last attended a failing school, defined as a
 19 school which received a "D" or "F" rating, the child shall be
 20 required to attend school until the age of eighteen (18) in
 21 accordance with Section 37-13-91.



22 **SECTION 2.** Section 37-13-91, Mississippi Code of 1972, is
23 amended as follows:

24 37-13-91. (1) This section shall be referred to as the
25 "Mississippi Compulsory School Attendance Law."

26 (2) The following terms as used in this section are defined
27 as follows:

28 (a) "Parent" means the father or mother to whom a child
29 has been born, or the father or mother by whom a child has been
30 legally adopted.

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

34 (c) "Custodian" means any person having the present
35 care or custody of a child, other than a parent or guardian of the
36 child.

37 (d) "School day" means not less than five and one-half
38 (5-1/2) and not more than eight (8) hours of actual teaching in
39 which both teachers and pupils are in regular attendance for
40 scheduled schoolwork.

41 (e) "School" means any public school, including a
42 charter school, in this state or any nonpublic school in this
43 state which is in session each school year for at least one
44 hundred eighty (180) school days, except that the "nonpublic"
45 school term shall be the number of days that each school shall
46 require for promotion from grade to grade.



47 (f) "Compulsory-school-age child" means a child who has
48 attained or will attain the age of six (6) years on or before
49 September 1 of the calendar year and who has not attained the age
50 of seventeen (17) years on or before September 1 of the calendar
51 year; and shall include any child who has attained or will attain
52 the age of five (5) years on or before September 1 and has
53 enrolled in a full-day public school kindergarten program; and
54 shall include any child who is under the age of eighteen (18) and
55 chooses to drop out of public school but cannot attain the minimum
56 required ACT score as provided in Section 1 of this act.

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

59 (h) "Appropriate school official" means the
60 superintendent of the school district, or his designee, or, in the
61 case of a nonpublic school, the principal or the headmaster.

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

68 (3) A parent, guardian or custodian of a
69 compulsory-school-age child in this state shall cause the child to
70 enroll in and attend a public school or legitimate nonpublic



71 school for the period of time that the child is of compulsory
72 school age, except under the following circumstances:

73 (a) When a compulsory-school-age child is physically,
74 mentally or emotionally incapable of attending school as
75 determined by the appropriate school official based upon
76 sufficient medical documentation.

77 (b) When a compulsory-school-age child is enrolled in
78 and pursuing a course of special education, remedial education or
79 education for handicapped or physically or mentally disadvantaged
80 children.

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

83 The parent, guardian or custodian of a compulsory-school-age
84 child described in this subsection, or the parent, guardian or
85 custodian of a compulsory-school-age child attending any charter
86 school or nonpublic school, or the appropriate school official for
87 any or all children attending a charter school or nonpublic school
88 shall complete a "certificate of enrollment" in order to
89 facilitate the administration of this section.

90 The form of the certificate of enrollment shall be prepared
91 by the Office of Compulsory School Attendance Enforcement of the
92 State Department of Education and shall be designed to obtain the
93 following information only:

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



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

98 (iii) A simple description of the type of
99 education the compulsory-school-age child is receiving and, if the
100 child is enrolled in a nonpublic school, the name and address of
101 the school; and

102 (iv) The signature of the parent, guardian or
103 custodian of the compulsory-school-age child or, for any or all
104 compulsory-school-age child or children attending a charter school
105 or nonpublic school, the signature of the appropriate school
106 official and the date signed.

107 The certificate of enrollment shall be returned to the school
108 attendance officer where the child resides on or before September
109 15 of each year. Any parent, guardian or custodian found by the
110 school attendance officer to be in noncompliance with this section
111 shall comply, after written notice of the noncompliance by the
112 school attendance officer, with this subsection within ten (10)
113 days after the notice or be in violation of this section.

114 However, in the event the child has been enrolled in a public
115 school within fifteen (15) calendar days after the first day of
116 the school year as required in subsection (6), the parent or
117 custodian may, at a later date, enroll the child in a legitimate
118 nonpublic school or legitimate home instruction program and send
119 the certificate of enrollment to the school attendance officer and
120 be in compliance with this subsection.



121 For the purposes of this subsection, a legitimate nonpublic
122 school or legitimate home instruction program shall be those not
123 operated or instituted for the purpose of avoiding or
124 circumventing the compulsory attendance law.

125 (4) An "unlawful absence" is an absence for an entire school
126 day or during part of a school day by a compulsory-school-age
127 child, which absence is not due to a valid excuse for temporary
128 nonattendance. For purposes of reporting absenteeism under
129 subsection (6) of this section, if a compulsory-school-age child
130 has an absence that is more than thirty-seven percent (37%) of the
131 instructional day, as fixed by the school board for the school at
132 which the compulsory-school-age child is enrolled, the child must
133 be considered absent the entire school day. Days missed from
134 school due to disciplinary suspension shall not be considered an
135 "excused" absence under this section. This subsection shall not
136 apply to children enrolled in a nonpublic school.

137 Each of the following shall constitute a valid excuse for
138 temporary nonattendance of a compulsory-school-age child enrolled
139 in a noncharter public school, provided satisfactory evidence of
140 the excuse is provided to the superintendent of the school
141 district, or his designee:

142 (a) An absence is excused when the absence results from
143 the compulsory-school-age child's attendance at an authorized
144 school activity with the prior approval of the superintendent of
145 the school district, or his designee. These activities may



146 include field trips, athletic contests, student conventions,
147 musical festivals and any similar activity.

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

151 (c) An absence is excused when isolation of a
152 compulsory-school-age child is ordered by the county health
153 officer, by the State Board of Health or appropriate school
154 official.

155 (d) An absence is excused when it results from the
156 death or serious illness of a member of the immediate family of a
157 compulsory-school-age child. The immediate family members of a
158 compulsory-school-age child shall include children, spouse,
159 grandparents, parents, brothers and sisters, including
160 stepbrothers and stepsisters.

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

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

167 (g) An absence may be excused if the religion to which
168 the compulsory-school-age child or the child's parents adheres,
169 requires or suggests the observance of a religious event. The
170 approval of the absence is within the discretion of the



171 superintendent of the school district, or his designee, but
172 approval should be granted unless the religion's observance is of
173 such duration as to interfere with the education of the child.

174 (h) An absence may be excused when it is demonstrated
175 to the satisfaction of the superintendent of the school district,
176 or his designee, that the purpose of the absence is to take
177 advantage of a valid educational opportunity such as travel,
178 including vacations or other family travel. Approval of the
179 absence must be gained from the superintendent of the school
180 district, or his designee, before the absence, but the approval
181 shall not be unreasonably withheld.

182 (i) An absence may be excused when it is demonstrated
183 to the satisfaction of the superintendent of the school district,
184 or his designee, that conditions are sufficient to warrant the
185 compulsory-school-age child's nonattendance. However, no absences
186 shall be excused by the school district superintendent, or his
187 designee, when any student suspensions or expulsions circumvent
188 the intent and spirit of the compulsory attendance law.

189 (j) An absence is excused when it results from the
190 attendance of a compulsory-school-age child participating in
191 official organized events sponsored by the 4-H or Future Farmers
192 of America (FFA). The excuse for the 4-H or FFA event must be
193 provided in writing to the appropriate school superintendent by
194 the Extension Agent or High School Agricultural Instructor/FFA
195 Advisor.



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

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

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



221 of a compulsory-school-age child unless the school attendance
222 officer has contacted promptly the home of the child and has
223 provided written notice to the parent, guardian or custodian of
224 the requirement for the child's enrollment or attendance.

225 (6) If a compulsory-school-age child has not been enrolled
226 in a school within fifteen (15) calendar days after the first day
227 of the school year of the school which the child is eligible to
228 attend or the child has accumulated five (5) unlawful absences
229 during the school year of the public school in which the child is
230 enrolled, the school district superintendent, or his designee,
231 shall report, within two (2) school days or within five (5)
232 calendar days, whichever is less, the absences to the school
233 attendance officer. The State Department of Education shall
234 prescribe a uniform method for schools to utilize in reporting the
235 unlawful absences to the school attendance officer. The
236 superintendent, or his designee, also shall report any student
237 suspensions or student expulsions to the school attendance officer
238 when they occur.

239 (7) When a school attendance officer has made all attempts
240 to secure enrollment and/or attendance of a compulsory-school-age
241 child and is unable to effect the enrollment and/or attendance,
242 the attendance officer shall file a petition with the youth court
243 under Section 43-21-451 or shall file a petition in a court of
244 competent jurisdiction as it pertains to parent or child.
245 Sheriffs, deputy sheriffs and municipal law enforcement officers



246 shall be fully authorized to investigate all cases of
247 nonattendance and unlawful absences by compulsory-school-age
248 children, and shall be authorized to file a petition with the
249 youth court under Section 43-21-451 or file a petition or
250 information in the court of competent jurisdiction as it pertains
251 to parent or child for violation of this section. The youth court
252 shall expedite a hearing to make an appropriate adjudication and a
253 disposition to ensure compliance with the Compulsory School
254 Attendance Law, and may order the child to enroll or re-enroll in
255 school. The superintendent of the school district to which the
256 child is ordered may assign, in his discretion, the child to the
257 alternative school program of the school established pursuant to
258 Section 37-13-92.

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

263 (9) Notwithstanding any provision or implication herein to
264 the contrary, it is not the intention of this section to impair
265 the primary right and the obligation of the parent or parents, or
266 person or persons in loco parentis to a child, to choose the
267 proper education and training for such child, and nothing in this
268 section shall ever be construed to grant, by implication or
269 otherwise, to the State of Mississippi, any of its officers,
270 agencies or subdivisions any right or authority to control,



271 manage, supervise or make any suggestion as to the control,
272 management or supervision of any private or parochial school or
273 institution for the education or training of children, of any kind
274 whatsoever that is not a public school according to the laws of
275 this state; and this section shall never be construed so as to
276 grant, by implication or otherwise, any right or authority to any
277 state agency or other entity to control, manage, supervise,
278 provide for or affect the operation, management, program,
279 curriculum, admissions policy or discipline of any such school or
280 home instruction program.

281 **SECTION 3.** This act shall take effect and be in force from
282 and after July 1, 2023.

