

By: Senator(s) Tate

To: Education

SENATE BILL NO. 2824

1 AN ACT TO AMEND SECTION 37-13-91, MISSISSIPPI CODE OF 1972,  
2 TO ALLOW AN EXCUSED ABSENCE FOR COMPULSORY-SCHOOL-AGE CHILDREN  
3 BETWEEN THE AGES OF SIXTEEN AND EIGHTEEN WHO SERVE AS POLL WORKERS  
4 ON ELECTION DAY; AND FOR RELATED PURPOSES.

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

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

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

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

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

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



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

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

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

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

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

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



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

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

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

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

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

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



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

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

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

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

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

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

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



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

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

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



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

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

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

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

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



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

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

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

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

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



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

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

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

181 (l) An absence is excused when it results from a  
182 compulsory-school-age child between sixteen (16) to eighteen (18)  
183 years of age, officially serving as poll workers on election day.  
184 The excuse for working at the polls must be provided in writing to  
185 the appropriate school superintendent by a supervising poll  
186 manager.

187 (5) Any parent, guardian or custodian of a  
188 compulsory-school-age child subject to this section who refuses or  
189 willfully fails to perform any of the duties imposed upon him or  
190 her under this section or who intentionally falsifies any  
191 information required to be contained in a certificate of





192 enrollment, shall be guilty of contributing to the neglect of a  
193 child and, upon conviction, shall be punished in accordance with  
194 Section 97-5-39.

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

212       (6) If a compulsory-school-age child has not been enrolled  
213 in a school within fifteen (15) calendar days after the first day  
214 of the school year of the school which the child is eligible to  
215 attend or the child has accumulated five (5) unlawful absences  
216 during the school year of the public school in which the child is



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

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



242 school. The superintendent of the school district to which the  
243 child is ordered may assign, in his discretion, the child to the  
244 alternative school program of the school established pursuant to  
245 Section 37-13-92.

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

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



266 curriculum, admissions policy or discipline of any such school or  
267 home instruction program.

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

