

By: Representative Hines

To: Education

HOUSE BILL NO. 191

1 AN ACT TO AMEND SECTION 37-13-91, MISSISSIPPI CODE OF 1972,  
 2 TO REVISE THE DEFINITION OF THE TERM "COMPULSORY-SCHOOL-AGE CHILD"  
 3 BY INCREASING THE MAXIMUM AGE REQUIRED FOR COMPULSORY ATTENDANCE  
 4 TO INCLUDE CHILDREN WHO HAVE NOT ATTAINED THE AGE OF EIGHTEEN  
 5 YEARS ON OR BEFORE SEPTEMBER 1 OF THE CALENDAR YEAR; AND FOR  
 6 RELATED PURPOSES.

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

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

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

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

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

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



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

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

27 (e) "School" means any public school, including a  
28 charter school, in this state or any nonpublic school in this  
29 state which is in session each school year for at least \* \* \* the  
30 minimum number of school days in a scholastic year established  
31 under Section 37-13-63, except that the "nonpublic" school term  
32 shall be the number of days that each school shall require for  
33 promotion from grade to grade.

34 (f) "Compulsory-school-age child" means a child who has  
35 attained or will attain the age of six (6) years on or before  
36 September 1 of the calendar year and who has not attained the age  
37 of \* \* \* eighteen (18) years on or before September 1 of the  
38 calendar year \* \* \*. The term "compulsory-school-age child"  
39 includes any child who has attained or will attain the age of five  
40 (5) years on or before September 1 and has enrolled in a full-day  
41 public school kindergarten program. A child who graduates high  
42 school before his or her eighteenth birthday after receiving the  
43 necessary credits through a program of dual enrollment or passing  
44 the required examinations for gifted, advanced placement,



45 International Baccalaureate, GED or high school equivalency  
46 programs is not included in the definition of  
47 "compulsory-school-age child." A student who has attained the age  
48 of eighteen (18) years after the start of the school year  
49 voluntarily may sign and acknowledge a written agreement to be  
50 bound by the Mississippi Compulsory School Attendance Law and to  
51 continue in attendance in the current school or school district.

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

54 (h) "Appropriate school official" means the  
55 superintendent of the school district, or his designee, or, in the  
56 case of a nonpublic school, the principal or the headmaster.

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

63 (3) A parent, guardian or custodian of a  
64 compulsory-school-age child in this state shall cause the child to  
65 enroll in and attend a public school or legitimate nonpublic  
66 school for the period of time that the child is of compulsory  
67 school age, except under the following circumstances:

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



70 determined by the appropriate school official based upon  
71 sufficient medical documentation.

72 (b) When a compulsory-school-age child is enrolled in  
73 and pursuing a course of special education, remedial education or  
74 education for handicapped or physically or mentally disadvantaged  
75 children.

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

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

85 The form of the certificate of enrollment shall be prepared  
86 by the Office of Compulsory School Attendance Enforcement of the  
87 State Department of Education and shall be designed to obtain the  
88 following information only:

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

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

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



95 child is enrolled in a nonpublic school, the name and address of  
96 the school; and

97 (iv) The signature of the parent, guardian or  
98 custodian of the compulsory-school-age child or, for any or all  
99 compulsory-school-age child or children attending a charter school  
100 or nonpublic school, the signature of the appropriate school  
101 official and the date signed.

102 The certificate of enrollment shall be returned to the school  
103 attendance officer where the child resides on or before September  
104 15 of each year. Any parent, guardian or custodian found by the  
105 school attendance officer to be in noncompliance with this section  
106 shall comply, after written notice of the noncompliance by the  
107 school attendance officer, with this subsection within ten (10)  
108 days after the notice or be in violation of this section.

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

116 For the purposes of this subsection, a legitimate nonpublic  
117 school or legitimate home instruction program shall be those not  
118 operated or instituted for the purpose of avoiding or  
119 circumventing the compulsory attendance law.



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

132           Each of the following shall constitute a valid excuse for  
133 temporary nonattendance of a compulsory-school-age child enrolled  
134 in a noncharter public school, provided satisfactory evidence of  
135 the excuse is provided to the superintendent of the school  
136 district, or his designee:

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



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

146           (c) An absence is excused when isolation of a  
147 compulsory-school-age child is ordered by the county health  
148 officer, by the State Board of Health or appropriate school  
149 official.

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

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

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

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



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

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

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

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





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

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

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



216 of a compulsory-school-age child unless the school attendance  
217 officer has contacted promptly the home of the child and has  
218 provided written notice to the parent, guardian or custodian of  
219 the requirement for the child's enrollment or attendance.

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

234 (7) When a school attendance officer has made all attempts  
235 to secure enrollment and/or attendance of a compulsory-school-age  
236 child and is unable to effect the enrollment and/or attendance,  
237 the attendance officer shall file a petition with the youth court  
238 under Section 43-21-451 or shall file a petition in a court of  
239 competent jurisdiction as it pertains to parent or child.

240 Sheriffs, deputy sheriffs and municipal law enforcement officers



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

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

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



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

276         **SECTION 2.** This act shall take effect and be in force from  
277 and after July 1, 2024.

