

By: Representative Scott

To: Education;
Appropriations A

HOUSE BILL NO. 237

1 AN ACT TO AMEND SECTION 37-15-9, MISSISSIPPI CODE OF 1972, TO
2 ALLOW ANY STUDENT WHO REACHES THE AGE OF SIX ON OR BEFORE DECEMBER
3 31 TO ENROLL IN FIRST GRADE AT THE START OF THE SCHOOL YEAR DURING
4 WHICH THE CHILD ATTAINS THE AGE OF SIX; TO AMEND SECTION 37-13-91,
5 MISSISSIPPI CODE OF 1972, TO INCLUDE STUDENTS WHO ARE ENROLLED AT
6 THE START OF A SCHOOL YEAR DURING WHICH THEY ATTAIN THE AGE OF SIX
7 ON OR BEFORE DECEMBER 31 IN THE DEFINITION OF
8 "COMPULSORY-SCHOOL-AGE CHILD"; AND FOR RELATED PURPOSES.

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

10 **SECTION 1.** Section 37-15-9, Mississippi Code of 1972, is
11 amended as follows:

12 37-15-9. (1) Except as provided in subsection (2) and
13 subject to the provisions of subsection (3) of this section, no
14 child shall be enrolled or admitted to any kindergarten which is a
15 part of a public school during any school year unless such child
16 will reach his fifth birthday on or before September 1 of * * *
17 that school year * * *. Any child * * * who will reach his or her
18 sixth birthday on or before December 31 may be enrolled or
19 admitted to the first grade in any public school * * * at the
20 beginning of the school year * * * in which the child will attain
21 the age of six (6) years. No pupil shall be permanently enrolled



22 in a public school in the State of Mississippi who formerly was
23 enrolled in another public or private school within the state
24 until the cumulative record of the pupil shall have been received
25 from the school from which he transferred. Should such record
26 have become lost or destroyed, then it shall be the duty of the
27 superintendent or principal of the school where the pupil last
28 attended school to initiate a new record.

29 (2) Subject to the provisions of subsection (3) of this
30 section, any child who transfers from an out-of-state public or
31 private school in which that state's law provides for a
32 first-grade or kindergarten enrollment date subsequent to
33 September 1, shall be allowed to enroll in the public schools of
34 Mississippi, at the same grade level as their prior out-of-state
35 enrollment, if:

36 (a) The parent, legal guardian or custodian of such
37 child was a legal resident of the state from which the child is
38 transferring;

39 (b) The out-of-state school from which the child is
40 transferring is duly accredited by that state's appropriate
41 accrediting authority;

42 (c) Such child was legally enrolled in a public or
43 private school for a minimum of four (4) weeks in the previous
44 state; and

45 (d) The superintendent of schools in the applicable
46 Mississippi school district or the principal of a charter school,



47 as the case may be, has determined that the child was making
48 satisfactory educational progress in the previous state.

49 (3) When any child applies for admission or enrollment in
50 any public school in the state, the parent, guardian or child, in
51 the absence of an accompanying parent or guardian, shall indicate
52 on the school registration form if the enrolling child has been
53 expelled from any public or private school or is currently a party
54 to an expulsion proceeding. If it is determined from the child's
55 cumulative record or application for admission or enrollment that
56 the child has been expelled, the school district or charter school
57 may deny the student admission and enrollment until the
58 superintendent of the school, or his designee, or principal of the
59 charter school, as the case may be, has reviewed the child's
60 cumulative record and determined that the child has participated
61 in successful rehabilitative efforts including, but not limited
62 to, progress in an alternative school or similar program. If the
63 child is a party to an expulsion proceeding, the child may be
64 admitted to a public school pending final disposition of the
65 expulsion proceeding. If the expulsion proceeding results in the
66 expulsion of the child, the public school may revoke such
67 admission to school. If the child was expelled or is a party to
68 an expulsion proceeding for an act involving violence, weapons,
69 alcohol, illegal drugs or other activity that may result in
70 expulsion, the school district or charter school shall not be



71 required to grant admission or enrollment to the child before one
72 (1) calendar year after the date of the expulsion.

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

75 37-13-91. (1) This section shall be referred to as the
76 "Mississippi Compulsory School Attendance Law."

77 (2) The following terms as used in this section are defined
78 as follows:

79 (a) "Parent" means the father or mother to whom a child
80 has been born, or the father or mother by whom a child has been
81 legally adopted.

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

85 (c) "Custodian" means any person having the present
86 care or custody of a child, other than a parent or guardian of the
87 child.

88 (d) "School day" means not less than five and one-half
89 (5-1/2) and not more than eight (8) hours of actual teaching in
90 which both teachers and pupils are in regular attendance for
91 scheduled schoolwork.

92 (e) "School" means any public school, including a
93 charter school, in this state or any nonpublic school in this
94 state which is in session each school year for at least one
95 hundred eighty (180) school days, except that the "nonpublic"



96 school term shall be the number of days that each school shall
97 require for promotion from grade to grade.

98 (f) "Compulsory-school-age child" means a child who has
99 attained or will attain the age of six (6) years on or before
100 September 1 of the calendar year and who has not attained the age
101 of seventeen (17) years on or before September 1 of the calendar
102 year * * *. "Compulsory-school-age child" * * * includes any
103 child who has attained or will attain the age of five (5) years on
104 or before September 1 and has enrolled in a full-day public school
105 kindergarten program and any child who will attain the age of six
106 (6) years on or before December 31 who has enrolled in first grade
107 at the beginning of the school year in which the child will attain
108 the age of six (6) years.

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

111 (h) "Appropriate school official" means the
112 superintendent of the school district, or his designee, or, in the
113 case of a nonpublic school, the principal or the headmaster.

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



120 (3) A parent, guardian or custodian of a
121 compulsory-school-age child in this state shall cause the child to
122 enroll in and attend a public school or legitimate nonpublic
123 school for the period of time that the child is of compulsory
124 school age, except under the following circumstances:

125 (a) When a compulsory-school-age child is physically,
126 mentally or emotionally incapable of attending school as
127 determined by the appropriate school official based upon
128 sufficient medical documentation.

129 (b) When a compulsory-school-age child is enrolled in
130 and pursuing a course of special education, remedial education or
131 education for handicapped or physically or mentally disadvantaged
132 children.

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

135 The parent, guardian or custodian of a compulsory-school-age
136 child described in this subsection, or the parent, guardian or
137 custodian of a compulsory-school-age child attending any charter
138 school or nonpublic school, or the appropriate school official for
139 any or all children attending a charter school or nonpublic school
140 shall complete a "certificate of enrollment" in order to
141 facilitate the administration of this section.

142 The form of the certificate of enrollment shall be prepared
143 by the Office of Compulsory School Attendance Enforcement of the



144 State Department of Education and shall be designed to obtain the
145 following information only:

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

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

150 (iii) A simple description of the type of
151 education the compulsory-school-age child is receiving and, if the
152 child is enrolled in a nonpublic school, the name and address of
153 the school; and

154 (iv) The signature of the parent, guardian or
155 custodian of the compulsory-school-age child or, for any or all
156 compulsory-school-age child or children attending a charter school
157 or nonpublic school, the signature of the appropriate school
158 official and the date signed.

159 The certificate of enrollment shall be returned to the school
160 attendance officer where the child resides on or before September
161 15 of each year. Any parent, guardian or custodian found by the
162 school attendance officer to be in noncompliance with this section
163 shall comply, after written notice of the noncompliance by the
164 school attendance officer, with this subsection within ten (10)
165 days after the notice or be in violation of this section.

166 However, in the event the child has been enrolled in a public
167 school within fifteen (15) calendar days after the first day of
168 the school year as required in subsection (6), the parent or



169 custodian may, at a later date, enroll the child in a legitimate
170 nonpublic school or legitimate home instruction program and send
171 the certificate of enrollment to the school attendance officer and
172 be in compliance with this subsection.

173 For the purposes of this subsection, a legitimate nonpublic
174 school or legitimate home instruction program shall be those not
175 operated or instituted for the purpose of avoiding or
176 circumventing the compulsory attendance law.

177 (4) An "unlawful absence" is an absence for an entire school
178 day or during part of a school day by a compulsory-school-age
179 child, which absence is not due to a valid excuse for temporary
180 nonattendance. For purposes of reporting absenteeism under
181 subsection (6) of this section, if a compulsory-school-age child
182 has an absence that is more than thirty-seven percent (37%) of the
183 instructional day, as fixed by the school board for the school at
184 which the compulsory-school-age child is enrolled, the child must
185 be considered absent the entire school day. Days missed from
186 school due to disciplinary suspension shall not be considered an
187 "excused" absence under this section. This subsection shall not
188 apply to children enrolled in a nonpublic school.

189 Each of the following shall constitute a valid excuse for
190 temporary nonattendance of a compulsory-school-age child enrolled
191 in a noncharter public school, provided satisfactory evidence of
192 the excuse is provided to the superintendent of the school
193 district, or his designee:



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

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

203 (c) An absence is excused when isolation of a
204 compulsory-school-age child is ordered by the county health
205 officer, by the State Board of Health or appropriate school
206 official.

207 (d) An absence is excused when it results from the
208 death or serious illness of a member of the immediate family of a
209 compulsory-school-age child. The immediate family members of a
210 compulsory-school-age child shall include children, spouse,
211 grandparents, parents, brothers and sisters, including
212 stepbrothers and stepsisters.

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

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



219 (g) An absence may be excused if the religion to which
220 the compulsory-school-age child or the child's parents adheres,
221 requires or suggests the observance of a religious event. The
222 approval of the absence is within the discretion of the
223 superintendent of the school district, or his designee, but
224 approval should be granted unless the religion's observance is of
225 such duration as to interfere with the education of the child.

226 (h) An absence may be excused when it is demonstrated
227 to the satisfaction of the superintendent of the school district,
228 or his designee, that the purpose of the absence is to take
229 advantage of a valid educational opportunity such as travel,
230 including vacations or other family travel. Approval of the
231 absence must be gained from the superintendent of the school
232 district, or his designee, before the absence, but the approval
233 shall not be unreasonably withheld.

234 (i) An absence may be excused when it is demonstrated
235 to the satisfaction of the superintendent of the school district,
236 or his designee, that conditions are sufficient to warrant the
237 compulsory-school-age child's nonattendance. However, no absences
238 shall be excused by the school district superintendent, or his
239 designee, when any student suspensions or expulsions circumvent
240 the intent and spirit of the compulsory attendance law.

241 (j) An absence is excused when it results from the
242 attendance of a compulsory-school-age child participating in
243 official organized events sponsored by the 4-H or Future Farmers



244 of America (FFA). The excuse for the 4-H or FFA event must be
245 provided in writing to the appropriate school superintendent by
246 the Extension Agent or High School Agricultural Instructor/FFA
247 Advisor.

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

252 (5) Any parent, guardian or custodian of a
253 compulsory-school-age child subject to this section who refuses or
254 willfully fails to perform any of the duties imposed upon him or
255 her under this section or who intentionally falsifies any
256 information required to be contained in a certificate of
257 enrollment, shall be guilty of contributing to the neglect of a
258 child and, upon conviction, shall be punished in accordance with
259 Section 97-5-39.

260 Upon prosecution of a parent, guardian or custodian of a
261 compulsory-school-age child for violation of this section, the
262 presentation of evidence by the prosecutor that shows that the
263 child has not been enrolled in school within eighteen (18)
264 calendar days after the first day of the school year of the public
265 school which the child is eligible to attend, or that the child
266 has accumulated twelve (12) unlawful absences during the school
267 year at the public school in which the child has been enrolled,
268 shall establish a prima facie case that the child's parent,



269 guardian or custodian is responsible for the absences and has
270 refused or willfully failed to perform the duties imposed upon him
271 or her under this section. However, no proceedings under this
272 section shall be brought against a parent, guardian or custodian
273 of a compulsory-school-age child unless the school attendance
274 officer has contacted promptly the home of the child and has
275 provided written notice to the parent, guardian or custodian of
276 the requirement for the child's enrollment or attendance.

277 (6) If a compulsory-school-age child has not been enrolled
278 in a school within fifteen (15) calendar days after the first day
279 of the school year of the school which the child is eligible to
280 attend or the child has accumulated five (5) unlawful absences
281 during the school year of the public school in which the child is
282 enrolled, the school district superintendent, or his designee,
283 shall report, within two (2) school days or within five (5)
284 calendar days, whichever is less, the absences to the school
285 attendance officer. The State Department of Education shall
286 prescribe a uniform method for schools to utilize in reporting the
287 unlawful absences to the school attendance officer. The
288 superintendent, or his designee, also shall report any student
289 suspensions or student expulsions to the school attendance officer
290 when they occur.

291 (7) When a school attendance officer has made all attempts
292 to secure enrollment and/or attendance of a compulsory-school-age
293 child and is unable to effect the enrollment and/or attendance,



294 the attendance officer shall file a petition with the youth court
295 under Section 43-21-451 or shall file a petition in a court of
296 competent jurisdiction as it pertains to parent or child.
297 Sheriffs, deputy sheriffs and municipal law enforcement officers
298 shall be fully authorized to investigate all cases of
299 nonattendance and unlawful absences by compulsory-school-age
300 children, and shall be authorized to file a petition with the
301 youth court under Section 43-21-451 or file a petition or
302 information in the court of competent jurisdiction as it pertains
303 to parent or child for violation of this section. The youth court
304 shall expedite a hearing to make an appropriate adjudication and a
305 disposition to ensure compliance with the Compulsory School
306 Attendance Law, and may order the child to enroll or re-enroll in
307 school. The superintendent of the school district to which the
308 child is ordered may assign, in his discretion, the child to the
309 alternative school program of the school established pursuant to
310 Section 37-13-92.

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

315 (9) Notwithstanding any provision or implication herein to
316 the contrary, it is not the intention of this section to impair
317 the primary right and the obligation of the parent or parents, or
318 person or persons in loco parentis to a child, to choose the



319 proper education and training for such child, and nothing in this
320 section shall ever be construed to grant, by implication or
321 otherwise, to the State of Mississippi, any of its officers,
322 agencies or subdivisions any right or authority to control,
323 manage, supervise or make any suggestion as to the control,
324 management or supervision of any private or parochial school or
325 institution for the education or training of children, of any kind
326 whatsoever that is not a public school according to the laws of
327 this state; and this section shall never be construed so as to
328 grant, by implication or otherwise, any right or authority to any
329 state agency or other entity to control, manage, supervise,
330 provide for or affect the operation, management, program,
331 curriculum, admissions policy or discipline of any such school or
332 home instruction program.

333 **SECTION 3.** This act shall take effect and be in force from
334 and after July 1, 2024.

