

By: Representatives Warren, Lott

To: Education;
Appropriations

HOUSE BILL NO. 643
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 37-13-89, MISSISSIPPI CODE OF 1972,
2 TO REQUIRE THE STATE DEPARTMENT OF EDUCATION TO OBTAIN
3 FINGERPRINTS AND CRIMINAL RECORDS BACKGROUND CHECKS ON APPLICANTS
4 FOR THE POSITION OF SCHOOL ATTENDANCE OFFICER, TO PROHIBIT THE
5 EMPLOYMENT OF PERSONS DETERMINED THROUGH THE FINGERPRINTING OR
6 BACKGROUND CHECKS TO BE GUILTY OF CERTAIN FELONIES, TO AUTHORIZE
7 WAIVERS FOR MITIGATING CIRCUMSTANCES AND TO PROVIDE IMMUNITY TO
8 MEMBERS OF THE STATE BOARD OF EDUCATION AND EMPLOYEES OF THE STATE
9 DEPARTMENT OF EDUCATION REGARDING EMPLOYMENT DECISIONS BASED UPON
10 THE FINGERPRINTING AND BACKGROUND CHECKS; AND FOR RELATED
11 PURPOSES.

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

13 **SECTION 1.** Section 37-13-89, Mississippi Code of 1972, is
14 amended as follows:

15 37-13-89. (1) In each school district within the state,
16 there shall be employed the number of school attendance officers
17 determined by the Office of Compulsory School Attendance
18 Enforcement to be necessary to adequately enforce the provisions
19 of the Mississippi Compulsory School Attendance Law; however, this
20 number shall not exceed one hundred fifty-three (153) school
21 attendance officers at any time. From and after July 1, 1998, all
22 school attendance officers employed pursuant to this section shall
23 be employees of the State Department of Education. The State
24 Department of Education shall employ all persons employed as
25 school attendance officers by district attorneys before July 1,
26 1998, and shall assign them to school attendance responsibilities
27 in the school district in which they were employed before July 1,
28 1998. The first twelve (12) months of employment for each school
29 attendance officer shall be the probationary period of state
30 service.



31 (2) (a) The State Department of Education shall obtain
32 current criminal records background checks and current child abuse
33 registry checks on all persons applying for the position of school
34 attendance officer after July 2, 2002. The criminal records
35 information and registry checks must be kept on file for any new
36 hires. In order to determine an applicant's suitability for
37 employment as a school attendance officer, the applicant must be
38 fingerprinted. If no disqualifying record is identified at the
39 state level, the Department of Public Safety shall forward the
40 fingerprints to the Federal Bureau of Investigation (FBI) for a
41 national criminal history record check. The applicant shall pay
42 the fee, not to exceed Fifty Dollars (\$50.00), for the
43 fingerprinting and criminal records background check; however, the
44 State Department of Education, in its discretion, may pay the fee
45 for the fingerprinting and criminal records background check on
46 behalf of any applicant. Under no circumstances may a member of
47 the State Board of Education, employee of the State Department of
48 Education or any person other than the subject of the criminal
49 records background check disseminate information received through
50 any such checks except insofar as required to fulfill the purposes
51 of this subsection.

52 (b) If the fingerprinting or criminal records check
53 discloses a felony conviction, guilty plea or plea of nolo
54 contendere to a felony of possession or sale of drugs, murder,
55 manslaughter, armed robbery, rape, sexual battery, sex offense
56 listed in Section 45-33-23(g), child abuse, arson, grand larceny,
57 burglary, gratification of lust or aggravated assault which has
58 not been reversed on appeal or for which a pardon has not been
59 granted, the applicant is not eligible to be employed as a school
60 attendance officer. Any employment of an applicant pending the
61 results of the fingerprinting and criminal records check is
62 voidable if the new hire receives a disqualifying criminal records
63 check. However, the State Board of Education, in its discretion,



64 may allow an applicant aggrieved by an employment decision under
65 this subsection to appear before the board, or before a hearing
66 officer designated for that purpose, to show mitigating
67 circumstances that may exist and allow the new hire to be employed
68 as a school attendance officer. The State Board of Education may
69 grant waivers for mitigating circumstances, which may include, but
70 are not necessarily limited to: (i) age at which the crime was
71 committed; (ii) circumstances surrounding the crime; (iii) length
72 of time since the conviction and criminal history since the
73 conviction; (iv) work history; (v) current employment and
74 character references; and (vi) other evidence demonstrating the
75 ability of the person to perform the responsibilities of a school
76 attendance officer competently and that the person does not pose a
77 threat to the health or safety of children.

78 (c) A member of the State Board of Education or
79 employee of the State Department of Education may not be held
80 liable in any employment discrimination suit in which an
81 allegation of discrimination is made regarding an employment
82 decision authorized under this section.

83 (3) Each school attendance officer shall possess a college
84 degree with a major in a behavioral science or a related field or
85 shall have no less than three (3) years combined actual experience
86 as a school teacher, school administrator, law enforcement officer
87 possessing such degree, and/or social worker; however, these
88 requirements shall not apply to persons employed as school
89 attendance officers before January 1, 1987. School attendance
90 officers also shall satisfy any additional requirements that may
91 be established by the State Personnel Board for the position of
92 school attendance officer.

93 (4) It shall be the duty of each school attendance officer
94 to:



95 (a) Cooperate with any public agency to locate and
96 identify all compulsory-school-age children who are not attending
97 school;

98 (b) Cooperate with all courts of competent
99 jurisdiction;

100 (c) Investigate all cases of nonattendance and unlawful
101 absences by compulsory-school-age children not enrolled in a
102 nonpublic school;

103 (d) Provide appropriate counseling to encourage all
104 school-age children to attend school until they have completed
105 high school;

106 (e) Attempt to secure the provision of social or
107 welfare services that may be required to enable any child to
108 attend school;

109 (f) Contact the home or place of residence of a
110 compulsory-school-age child and any other place in which the
111 officer is likely to find any compulsory-school-age child when the
112 child is absent from school during school hours without a valid
113 written excuse from school officials, and when the child is found,
114 the officer shall notify the parents and school officials as to
115 where the child was physically located;

116 (g) Contact promptly the home of each
117 compulsory-school-age child in the school district within the
118 officer's jurisdiction who is not enrolled in school or is not in
119 attendance at public school and is without a valid written excuse
120 from school officials; if no valid reason is found for the
121 nonenrollment or absence from the school, the school attendance
122 officer shall give written notice to the parent, guardian or
123 custodian of the requirement for the child's enrollment or
124 attendance;

125 (h) Collect and maintain information concerning
126 absenteeism, dropouts and other attendance-related problems, as



127 may be required by law or the Office of Compulsory School
128 Attendance Enforcement; and

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

132 (5) While engaged in the performance of his duties, each
133 school attendance officer shall carry on his person a badge
134 identifying him as a school attendance officer under the Office of
135 Compulsory School Attendance Enforcement of the State Department
136 of Education and an identification card designed by the State
137 Superintendent of Public Education and issued by the school
138 attendance officer supervisor. Neither the badge nor the
139 identification card shall bear the name of any elected public
140 official.

141 (6) The State Personnel Board shall develop a salary scale
142 for school attendance officers as part of the variable
143 compensation plan. The various pay ranges of the salary scale
144 shall be based upon factors including, but not limited to,
145 education, professional certification and licensure, and number of
146 years of experience. * * * School attendance officers shall be
147 paid in accordance with this salary scale. * * * The minimum
148 salaries under the scale shall be no less than the following:

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

154	Years of Experience	Salary
155	0 - 4 years	\$19,650.00
156	5 - 8 years	21,550.00
157	9 - 12 years	23,070.00
158	13 - 16 years	24,590.00
159	Over 17 years	26,110.00



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

164	Years of Experience	Salary
165	0 - 4 years	\$20,650.00
166	5 - 8 years	22,950.00
167	9 - 12 years	24,790.00
168	13 - 16 years	26,630.00
169	17 - 20 years	28,470.00
170	Over 21 years	30,310.00

171 (c) For school attendance officers holding a master's
172 degree in a behavioral science or a related field, the annual
173 salary shall be based on years of experience as a school
174 attendance officer or related field of service or employment, no
175 less than as follows:

176	Years of Experience	Salary
177	0 - 4 years	\$21,450.00
178	5 - 8 years	24,000.00
179	9 - 12 years	26,040.00
180	13 - 16 years	28,080.00
181	17 - 20 years	30,120.00
182	Over 21 years	32,160.00

183 (7) (a) Each school attendance officer employed by a
184 district attorney on June 30, 1998, who became an employee of the
185 State Department of Education on July 1, 1998, shall be awarded
186 credit for personal leave and major medical leave for his
187 continuous service as a school attendance officer under the
188 district attorney, and if applicable, the youth or family court or
189 a state agency. The credit for personal leave shall be in an
190 amount equal to one-third (1/3) of the maximum personal leave the
191 school attendance officer could have accumulated had he been
192 credited with such leave under Section 25-3-93 during his



193 employment with the district attorney, and if applicable, the
194 youth or family court or a state agency. The credit for major
195 medical leave shall be in an amount equal to one-half (1/2) of the
196 maximum major medical leave the school attendance officer could
197 have accumulated had he been credited with such leave under
198 Section 25-3-95 during his employment with the district attorney,
199 and if applicable, the youth or family court or a state agency.
200 However, if a district attorney who employed a school attendance
201 officer on June 30, 1998, certifies, in writing, to the State
202 Department of Education that the school attendance officer had
203 accumulated, pursuant to a personal leave policy or major medical
204 leave policy lawfully adopted by the district attorney, a number
205 of days of unused personal leave or major medical leave, or both,
206 which is greater than the number of days to which the school
207 attendance officer is entitled under this paragraph, the State
208 Department of Education shall authorize the school attendance
209 officer to retain the actual unused personal leave or major
210 medical leave, or both, certified by the district attorney,
211 subject to the maximum amount of personal leave and major medical
212 leave the school attendance officer could have accumulated had he
213 been credited with such leave under Sections 25-3-93 and 25-3-95.

214 (b) For the purpose of determining the accrual rate for
215 personal leave under Section 25-3-93 and major medical leave under
216 Section 25-3-95, the State Department of Education shall give
217 consideration to all continuous service rendered by a school
218 attendance officer before July 1, 1998, in addition to the service
219 rendered by the school attendance officer as an employee of the
220 department.

221 (c) In order for a school attendance officer to be
222 awarded credit for personal leave and major medical leave or to
223 retain the actual unused personal leave and major medical leave
224 accumulated by him before July 1, 1998, the district attorney who
225 employed the school attendance officer must certify, in writing,



226 to the State Department of Education the hire date of the school
227 attendance officer. For each school attendance officer employed
228 by the youth or family court or a state agency before being
229 designated an employee of the district attorney who has not had a
230 break in continuous service, the hire date shall be the date that
231 the school attendance officer was hired by the youth or family
232 court or state agency. The department shall prescribe the date by
233 which the certification must be received by the department and
234 shall provide written notice to all district attorneys of the
235 certification requirement and the date by which the certification
236 must be received.

237 (8) (a) School attendance officers shall maintain regular
238 office hours on a year-round basis; however, during the school
239 term, on those days that teachers in all of the school districts
240 served by a school attendance officer are not required to report
241 to work, the school attendance officer also shall not be required
242 to report to work. (For purposes of this subsection, a school
243 district's school term is that period of time identified as the
244 school term in contracts entered into by the district with
245 licensed personnel.) A school attendance officer shall be
246 required to report to work on any day recognized as an official
247 state holiday if teachers in any school district served by that
248 school attendance officer are required to report to work on that
249 day, regardless of the school attendance officer's status as an
250 employee of the State Department of Education, and compensatory
251 leave may not be awarded to the school attendance officer for
252 working during that day. However, a school attendance officer may
253 be allowed by the school attendance officer's supervisor to use
254 earned leave on such days.

255 (b) The State Department of Education annually shall
256 designate a period of two (2) consecutive weeks in the summer
257 between school years during which school attendance officers shall
258 not be required to report to work. A school attendance officer



259 who elects to work at any time during that period may not be
260 awarded compensatory leave for such work and may not opt to be
261 absent from work at any time other than during the two (2) weeks
262 designated by the department unless the school attendance officer
263 uses personal leave or major medical leave accrued under Section
264 25-3-93 or 25-3-95 for such absence.

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

269 **SECTION 2.** This act shall take effect and be in force from
270 and after July 2, 2002.

