

By: Representative Fillingane

To: Public Health and Human
Services

HOUSE BILL NO. 865

1 AN ACT TO AMEND SECTION 41-23-37, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT A CHILD WILL BE EXEMPT FROM THE REQUIREMENT FOR
3 HAVING ANY SPECIFIC VACCINATION IN ORDER TO ATTEND A SCHOOL, IF
4 THE CHILD OR THE CHILD'S PARENT OR GUARDIAN SUBMITS A CERTIFICATE
5 FROM A PHYSICIAN STATING THAT THE REQUIRED VACCINATION WOULD BE
6 INJURIOUS TO THE HEALTH AND WELL-BEING OF THE CHILD; TO AUTHORIZE
7 SCHOOL ADMINISTRATORS, IF THERE IS AN OUTBREAK OF A
8 VACCINE-PREVENTABLE DISEASE AT A SCHOOL, TO EXCLUDE FROM
9 ATTENDANCE ANY CHILD WHO IS NOT VACCINATED AGAINST THAT DISEASE
10 UNTIL THE DISEASE INCUBATION PERIOD HAS EXPIRED OR THE
11 UNVACCINATED CHILD PRESENTS EVIDENCE OF VACCINATION; AND FOR
12 RELATED PURPOSES.

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

14 **SECTION 1.** Section 41-23-37, Mississippi Code of 1972, is
15 amended as follows:

16 41-23-37. (1) Whenever indicated, the State Health Officer
17 shall specify such immunization practices as may be considered
18 best for the control of vaccine preventable diseases. A listing
19 shall be promulgated annually or more often, if necessary.

20 (2) Except as provided hereinafter, it shall be unlawful for
21 any child to attend any school, kindergarten or similar type
22 facility intended for the instruction of children (hereinafter
23 called "schools"), either public or private, with the exception of
24 any legitimate home instruction program, as defined in Section
25 37-13-91, for ten (10) or fewer children who are related within
26 the third degree computed according to the civil law to the
27 operator, unless they * * * first have been vaccinated against
28 those diseases specified by the State Health Officer.

29 (3) (a) No child seeking to attend any school shall be
30 required to comply with the requirements of subsection (2) of this
31 section for any specific vaccination in order to attend the
32 school, if the child or the child's parent or guardian submits to

33 the school an affidavit or a certificate signed by a physician who
34 is duly licensed to practice medicine in the United States, in
35 which it is stated that, in the physician's medical judgment and
36 opinion, the required vaccination would be injurious to the health
37 and well-being of the child, whether the injury would be chronic
38 or acute.

39 (b) If there is an outbreak of a vaccine-preventable
40 disease at a school, the administrators of the school, upon the
41 recommendation of the State Health Officer or the local health
42 officer, may exclude from attendance any child who is not
43 vaccinated against that disease until the disease incubation
44 period has expired or the unvaccinated child presents evidence of
45 vaccination.

46 (4) Certificates of vaccination shall be issued by local
47 health officers or physicians on forms specified by the
48 Mississippi State Board of Health. These forms shall be the only
49 acceptable means for showing compliance with these immunization
50 requirements, and the responsible school officials shall file the
51 form with the child's record.

52 (5) If a child * * * offers to enroll at a school without
53 having completed the required vaccinations, the local health
54 officer may grant a period of time up to ninety (90) days for
55 that completion when, in the opinion of the health officer, the
56 delay will not cause undue risk to the child, the school or the
57 community. No child shall be enrolled without having had at least
58 one (1) dose of each specified vaccine.

59 (6) Within thirty (30) days after the opening of the fall
60 term of school (on or before October 1 of each year) the person in
61 charge of each school shall report to the county or local health
62 officer, on forms provided by the Mississippi State Board of
63 Health, the number of children enrolled by age or grade or both,
64 the number fully vaccinated, the number in process of completing

65 vaccination requirements, and the number exempt from vaccination
66 by reason for the exemption.

67 (7) Within one hundred twenty (120) days after the opening
68 of the fall term (on or before December 31), the person in charge
69 of each school shall certify to the local or county health officer
70 that all children enrolled are in compliance with immunization
71 requirements.

72 (8) For the purpose of assisting in supervising the
73 immunization status of the children the local health officer, or
74 his designee, may inspect the children's records or be furnished
75 certificates of immunization compliance by the school.

76 (9) It shall be the responsibility of the person in charge
77 of each school to enforce the requirements for immunization. Any
78 child not in compliance at the end of ninety (90) days from the
79 opening of the fall term must be suspended until in compliance,
80 unless the health officer * * * attributes the delay to lack of
81 supply of vaccine or some other such factor clearly making
82 compliance impossible.

83 (10) Failure to enforce provisions of this section shall
84 constitute a misdemeanor and, upon conviction, be punishable by
85 fine or imprisonment or both.

86 **SECTION 2.** This act shall take effect and be in force from
87 and after July 1, 2005.