

By: Senator(s) Chaney, King, White

To: Education

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2312

1 AN ACT TO AMEND SECTION 37-13-91, MISSISSIPPI CODE OF 1972,
2 TO CLARIFY THAT ANY COMPULSORY-SCHOOL-AGE CHILD WHO ATTAINS THE
3 AGE OF 17 YEARS DURING THE SCHOOL YEAR SHALL BE REQUIRED TO ATTEND
4 SCHOOL FOR THE REMAINDER OF THE SCHOOL TERM; AND FOR RELATED
5 PURPOSES.

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

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

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

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

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

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

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

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

26 (e) "School" means any public school in this state or
27 any nonpublic school in this state which is in session each school
28 year for at least one hundred eighty (180) school days, except

29 that the "nonpublic" school term shall be the number of days that
30 each school shall 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 Provided, however, that the parent or guardian of any child
39 enrolled in a full-day public school kindergarten program shall be
40 allowed to disenroll the child from the program on a one-time
41 basis, and such child shall not be deemed a compulsory-school-age
42 child until the child attains the age of six (6) years. Provided
43 further, that any compulsory-school-age child who attains the age
44 of seventeen (17) years during the school year shall be required
45 to attend school for the remainder of the one hundred eighty-day
46 school term. The following shall be exempted from compulsory
47 attendance requirements: any student seventeen (17) years of age
48 or older with less than five (5) Carnegie units of credit toward
49 graduation, who exhibits disruptive behavior, an incorrigible
50 attitude, or any other discipline problems in general, and who has
51 been recommended by the principal for expulsion, assignment to an
52 appropriate alternative education program, or transfer to
53 vocational education.

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

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

59 (i) "Nonpublic school" means an institution for the
60 teaching of children, consisting of a physical plant, whether
61 owned or leased, including a home, instructional staff members and

62 students, and which is in session each school year. This
63 definition shall include, but not be limited to, private, church,
64 parochial and home instruction programs.

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

70 (a) When a compulsory-school-age child is physically,
71 mentally or emotionally incapable of attending school as
72 determined by the appropriate school official based upon
73 sufficient medical documentation.

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

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

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

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

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

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

95 (iii) A simple description of the type of
96 education the compulsory-school-age child is receiving and, if the
97 child is enrolled in a nonpublic school, the name and address of
98 the school; and

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

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

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

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

122 (4) An "unlawful absence" is an absence during a school day
123 by a compulsory-school-age child, which absence is not due to a
124 valid excuse for temporary nonattendance. Days missed from school
125 due to disciplinary suspension shall not be considered an
126 "excused" absence under this section. This subsection shall not
127 apply to children enrolled in a nonpublic school.

128 Each of the following shall constitute a valid excuse for
129 temporary nonattendance of a compulsory-school-age child enrolled
130 in a public school, provided satisfactory evidence of the excuse
131 is provided to the superintendent of the school district, or his
132 designee:

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

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

142 (c) An absence is excused when isolation of a
143 compulsory-school-age child is ordered by the county health
144 officer, by the State Board of Health or appropriate school
145 official.

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

152 (e) An absence is excused when it results from a
153 medical or dental appointment of a compulsory-school-age child
154 where an approval of the superintendent of the school district, or
155 his designee, is gained before the absence, except in the case of
156 emergency.

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

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

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

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

183 (5) Any parent, guardian or custodian of a
184 compulsory-school-age child subject to this section who refuses or
185 willfully fails to perform any of the duties imposed upon him or
186 her under this section or who intentionally falsifies any
187 information required to be contained in a certificate of
188 enrollment, shall be guilty of contributing to the neglect of a
189 child and, upon conviction, shall be punished in accordance with
190 Section 97-5-39.

191 Upon prosecution of a parent, guardian or custodian of a
192 compulsory-school-age child for violation of this section, the
193 presentation of evidence by the prosecutor that shows that the

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

208 (6) If a compulsory-school-age child has not been enrolled
209 in a school within fifteen (15) calendar days after the first day
210 of the school year of the school which the child is eligible to
211 attend or the child has accumulated five (5) unlawful absences
212 during the school year of the public school in which the child is
213 enrolled, the school district superintendent shall report, within
214 two (2) school days or within five (5) calendar days, whichever is
215 less, the absences to the school attendance officer. The State
216 Department of Education shall prescribe a uniform method for
217 schools to utilize in reporting the unlawful absences to the
218 school attendance officer. The superintendent, or his designee,
219 also shall report any student suspensions or student expulsions to
220 the school attendance officer when they occur.

221 (7) When a school attendance officer has made all attempts
222 to secure enrollment and/or attendance of a compulsory-school-age
223 child and is unable to effect the enrollment and/or attendance,
224 the attendance officer shall file a petition with the youth court
225 under Section 43-21-451 or shall file a petition in a court of
226 competent jurisdiction as it pertains to parent or child.

227 Sheriffs, deputy sheriffs and municipal law enforcement officers
228 shall be fully authorized to investigate all cases of
229 nonattendance and unlawful absences by compulsory-school-age
230 children, and shall be authorized to file a petition with the
231 youth court under Section 43-21-451 or file a petition or
232 information in the court of competent jurisdiction as it pertains
233 to parent or child for violation of this section. The youth court
234 shall expedite a hearing to make an appropriate adjudication and a
235 disposition to ensure compliance with the Compulsory School
236 Attendance Law, and may order the child to enroll or re-enroll in
237 school. The superintendent of the school district to which the
238 child is ordered may assign, in his discretion, the child to the
239 alternative school program of the school established pursuant to
240 Section 37-13-92.

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

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

260 provide for or affect the operation, management, program,
261 curriculum, admissions policy or discipline of any such school or
262 home instruction program.

263 **SECTION 2.** This act shall take effect and be in force from
264 and after its passage.