

By: Senator(s) Chaney

To: Education

SENATE BILL NO. 2326

1 AN ACT TO AMEND SECTION 37-13-91, MISSISSIPPI CODE OF 1972,
2 TO EXTEND THE AGE FOR COMPULSORY SCHOOL ATTENDANCE FROM 16 TO 17
3 YEARS OF AGE; AND FOR RELATED PURPOSES.

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

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

7 37-13-91. (1) This section shall be referred to as the
8 "Mississippi Compulsory School Attendance Law."

9 (2) The following terms as used in this section are defined
10 as follows:

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

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

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

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

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

27 that the "nonpublic" school term shall be the number of days that
28 each school shall require for promotion from grade to grade.

29 (f) "Compulsory-school-age child" means a child who has
30 attained or will attain the age of six (6) years on or before
31 September 1 of the calendar year and who has not attained the age
32 of eighteen (18) years on or before September 1 of the calendar
33 year; and shall include any child who has attained or will attain
34 the age of five (5) years on or before September 1 and has
35 enrolled in a full-day public school kindergarten program.
36 Provided, however, that the parent or guardian of any child
37 enrolled in a full-day public school kindergarten program shall be
38 allowed to disenroll the child from the program on a one-time
39 basis, and such child shall not be deemed a compulsory-school-age
40 child until the child attains the age of six (6) years.

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

43 (h) "Appropriate school official" means the
44 superintendent of the school district, or his designee, or, in the
45 case of a nonpublic school, the principal or the headmaster.

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

52 (3) A parent, guardian or custodian of a
53 compulsory-school-age child in this state shall cause the child to
54 enroll in and attend a public school or legitimate nonpublic
55 school for the period of time that the child is of compulsory
56 school age, except under the following circumstances:

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

59 determined by the appropriate school official based upon
60 sufficient medical documentation.

61 (b) When a compulsory-school-age child is enrolled in
62 and pursuing a course of special education, remedial education or
63 education for handicapped or physically or mentally disadvantaged
64 children.

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

67 The parent, guardian or custodian of a compulsory-school-age
68 child described in this subsection, or the parent, guardian or
69 custodian of a compulsory-school-age child attending any nonpublic
70 school, or the appropriate school official for any or all children
71 attending a nonpublic school shall complete a "certificate of
72 enrollment" in order to facilitate the administration of this
73 section.

74 The form of the certificate of enrollment shall be prepared
75 by the Office of Compulsory School Attendance Enforcement of the
76 State Department of Education and shall be designed to obtain the
77 following information only:

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

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

82 (iii) A simple description of the type of
83 education the compulsory-school-age child is receiving and, if the
84 child is enrolled in a nonpublic school, the name and address of
85 the school; and

86 (iv) The signature of the parent, guardian or
87 custodian of the compulsory-school-age child or, for any or all
88 compulsory-school-age child or children attending a nonpublic
89 school, the signature of the appropriate school official and the
90 date signed.

91 The certificate of enrollment shall be returned to the school
92 attendance officer where the child resides on or before September
93 15 of each year. Any parent, guardian or custodian found by the
94 school attendance officer to be in noncompliance with this section
95 shall comply, after written notice of the noncompliance by the
96 school attendance officer, with this subsection within ten (10)
97 days after the notice or be in violation of this section.
98 However, in the event the child has been enrolled in a public
99 school within fifteen (15) calendar days after the first day of
100 the school year as required in subsection (6), the parent or
101 custodian may, at a later date, enroll the child in a legitimate
102 nonpublic school or legitimate home instruction program and send
103 the certificate of enrollment to the school attendance officer and
104 be in compliance with this subsection.

105 For the purposes of this subsection, a legitimate nonpublic
106 school or legitimate home instruction program shall be those not
107 operated or instituted for the purpose of avoiding or
108 circumventing the compulsory attendance law.

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

115 Each of the following shall constitute a valid excuse for
116 temporary nonattendance of a compulsory-school-age child enrolled
117 in a public school, provided satisfactory evidence of the excuse
118 is provided to the superintendent of the school district, or his
119 designee:

120 (a) An absence is excused when the absence results from
121 the compulsory-school-age child's attendance at an authorized
122 school activity with the prior approval of the superintendent of
123 the school district, or his designee. These activities may

124 include field trips, athletic contests, student conventions,
125 musical festivals and any similar activity.

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

129 (c) An absence is excused when isolation of a
130 compulsory-school-age child is ordered by the county health
131 officer, by the State Board of Health or appropriate school
132 official.

133 (d) An absence is excused when it results from the
134 death or serious illness of a member of the immediate family of a
135 compulsory-school-age child. The immediate family members of a
136 compulsory-school-age child shall include children, spouse,
137 grandparents, parents, brothers and sisters, including
138 stepbrothers and stepsisters.

139 (e) An absence is excused when it results from a
140 medical or dental appointment of a compulsory-school-age child
141 where an approval of the superintendent of the school district, or
142 his designee, is gained before the absence, except in the case of
143 emergency.

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

148 (g) An absence may be excused if the religion to which
149 the compulsory-school-age child or the child's parents adheres,
150 requires or suggests the observance of a religious event. The
151 approval of the absence is within the discretion of the
152 superintendent of the school district, or his designee, but
153 approval should be granted unless the religion's observance is of
154 such duration as to interfere with the education of the child.

155 (h) An absence may be excused when it is demonstrated
156 to the satisfaction of the superintendent of the school district,

157 or his designee, that the purpose of the absence is to take
158 advantage of a valid educational opportunity such as travel,
159 including vacations or other family travel. Approval of the
160 absence must be gained from the superintendent of the school
161 district, or his designee, before the absence, but the approval
162 shall not be unreasonably withheld.

163 (i) An absence may be excused when it is demonstrated
164 to the satisfaction of the superintendent of the school district,
165 or his designee, that conditions are sufficient to warrant the
166 compulsory-school-age child's nonattendance. However, no absences
167 shall be excused by the school district superintendent, or his
168 designee, when any student suspensions or expulsions circumvent
169 the intent and spirit of the compulsory attendance law.

170 (5) Any parent, guardian or custodian of a
171 compulsory-school-age child subject to this section who refuses or
172 willfully fails to perform any of the duties imposed upon him or
173 her under this section or who intentionally falsifies any
174 information required to be contained in a certificate of
175 enrollment, shall be guilty of contributing to the neglect of a
176 child and, upon conviction, shall be punished in accordance with
177 Section 97-5-39.

178 Upon prosecution of a parent, guardian or custodian of a
179 compulsory-school-age child for violation of this section, the
180 presentation of evidence by the prosecutor that shows that the
181 child has not been enrolled in school within eighteen (18)
182 calendar days after the first day of the school year of the public
183 school which the child is eligible to attend, or that the child
184 has accumulated twelve (12) unlawful absences during the school
185 year at the public school in which the child has been enrolled,
186 shall establish a prima facie case that the child's parent,
187 guardian or custodian is responsible for the absences and has
188 refused or willfully failed to perform the duties imposed upon him
189 or her under this section. However, no proceedings under this

190 section shall be brought against a parent, guardian or custodian
191 of a compulsory-school-age child unless the school attendance
192 officer has contacted promptly the home of the child and has
193 provided written notice to the parent, guardian or custodian of
194 the requirement for the child's enrollment or attendance.

195 (6) If a compulsory-school-age child has not been enrolled
196 in a school within fifteen (15) calendar days after the first day
197 of the school year of the school which the child is eligible to
198 attend or the child has accumulated five (5) unlawful absences
199 during the school year of the public school in which the child is
200 enrolled, the school district superintendent shall report, within
201 two (2) school days or within five (5) calendar days, whichever is
202 less, the absences to the school attendance officer. The State
203 Department of Education shall prescribe a uniform method for
204 schools to utilize in reporting the unlawful absences to the
205 school attendance officer. The superintendent, or his designee,
206 also shall report any student suspensions or student expulsions to
207 the school attendance officer when they occur.

208 (7) When a school attendance officer has made all attempts
209 to secure enrollment and/or attendance of a compulsory-school-age
210 child and is unable to effect the enrollment and/or attendance,
211 the attendance officer shall file a petition with the youth court
212 under Section 43-21-451 or shall file a petition in a court of
213 competent jurisdiction as it pertains to parent or child.
214 Sheriffs, deputy sheriffs and municipal law enforcement officers
215 shall be fully authorized to investigate all cases of
216 nonattendance and unlawful absences by compulsory-school-age
217 children, and shall be authorized to file a petition with the
218 youth court under Section 43-21-451 or file a petition or
219 information in the court of competent jurisdiction as it pertains
220 to parent or child for violation of this section. The youth court
221 shall expedite a hearing to make an appropriate adjudication and a
222 disposition to ensure compliance with the Compulsory School

223 Attendance Law, and may order the child to enroll or re-enroll in
224 school. The superintendent of the school district to which the
225 child is ordered may assign, in his discretion, the child to the
226 alternative school program of the school established pursuant to
227 Section 37-13-92.

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

232 (9) Notwithstanding any provision or implication herein to
233 the contrary, it is not the intention of this section to impair
234 the primary right and the obligation of the parent or parents, or
235 person or persons in loco parentis to a child, to choose the
236 proper education and training for such child, and nothing in this
237 section shall ever be construed to grant, by implication or
238 otherwise, to the State of Mississippi, any of its officers,
239 agencies or subdivisions any right or authority to control,
240 manage, supervise or make any suggestion as to the control,
241 management or supervision of any private or parochial school or
242 institution for the education or training of children, of any kind
243 whatsoever that is not a public school according to the laws of
244 this state; and this section shall never be construed so as to
245 grant, by implication or otherwise, any right or authority to any
246 state agency or other entity to control, manage, supervise,
247 provide for or affect the operation, management, program,
248 curriculum, admissions policy or discipline of any such school or
249 home instruction program.

250 **SECTION 2.** This act shall take effect and be in force from
251 and after July 1, 2007.