

By: Representatives Banks, Clarke

To: Education

HOUSE BILL NO. 1178  
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 37-13-92, MISSISSIPPI CODE OF 1972,  
2 TO PROVIDE CRITERIA FOR SCHOOL DISTRICTS TO MAKE A DETERMINATION  
3 ON AN INDIVIDUALIZED BASIS BEFORE PLACING CERTAIN  
4 COMPULSORY-SCHOOL-AGE CHILDREN INTO AN ALTERNATIVE SCHOOL; AND FOR  
5 RELATED PURPOSES.

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

7 **SECTION 1.** Section 37-13-92, Mississippi Code of 1972, is  
8 amended as follows:

9 37-13-92. (1) Beginning with the school year 2004-2005, the  
10 school boards of all school districts shall establish, maintain  
11 and operate, in connection with the regular programs of the school  
12 district, an alternative school program or behavior modification  
13 program as defined by the State Board of Education for, but not  
14 limited to, the following categories of compulsory-school-age  
15 students:

16 (a) Any compulsory-school-age child who has been  
17 suspended for more than ten (10) days or expelled from school,  
18 except for any student expelled for possession of a weapon or  
19 other felonious conduct;

20 (b) Any compulsory-school-age child referred to such  
21 alternative school based upon a documented need for placement in  
22 the alternative school program by the parent, legal guardian or  
23 custodian of such child due to disciplinary problems;

24 (c) Any compulsory-school-age child referred to such  
25 alternative school program by the dispositive order of a  
26 chancellor or youth court judge, with the consent of the  
27 superintendent of the child's school district; \* \* \*



28 (d) Any compulsory-school-age child whose presence in  
29 the classroom, in the determination of the school superintendent  
30 or principal, is a disruption to the educational environment of  
31 the school or a detriment to the \* \* \* interest and welfare of the  
32 students and teachers of such class as a whole; and

33 (e) No school district is required to place a child  
34 returning from out-of-home placement in the mental health,  
35 juvenile justice or foster care system in alternative school.  
36 Placement of a child in the alternative school shall be done  
37 consistently, and for students identified under the Individuals  
38 with Disabilities Education Act (IDEA), shall adhere to the  
39 requirements of the Individuals with Disabilities Education  
40 Improvement Act of 2004. If a school district chooses to place a  
41 child in alternative school the district will make an individual  
42 assessment and evaluation of that child in the following time  
43 periods:

44 (i) Five (5) days for a child transitioning from a  
45 group home, mental health care system, and/or the custody of the  
46 Department of Human Services, Division of Youth and Family  
47 Services custody;

48 (ii) Ten (10) days for a child transitioning from  
49 a dispositional placement order by a youth court pursuant to  
50 Section 43-21-605; and

51 (iii) An individualized assessment for youth  
52 transitioning from out-of-home placement to the alternative school  
53 shall include:

54 1. A strength needs assessment.

55 2. A determination of the child's academic  
56 strengths and deficiencies.

57 3. A proposed plan for transitioning the  
58 child to a regular education placement at the earliest possible  
59 date.



60           (2) The principal or program administrator of any such  
61 alternative school program shall require verification from the  
62 appropriate guidance counselor of any such child referred to the  
63 alternative school program regarding the suitability of such child  
64 for attendance at the alternative school program. Before a  
65 student may be removed to an alternative school education program,  
66 the superintendent of the student's school district must determine  
67 that the written and distributed disciplinary policy of the local  
68 district is being followed. The policy shall include standards  
69 for:

70                   (a) The removal of a student to an alternative  
71 education program that will include a process of educational  
72 review to develop the student's individual instruction plan and  
73 the evaluation at regular intervals of the student's educational  
74 progress; the process shall include classroom teachers and/or  
75 other appropriate professional personnel, as defined in the  
76 district policy, to ensure a continuing educational program for  
77 the removed student;

78                   (b) The duration of alternative placement; and

79                   (c) The notification of parents or guardians, and their  
80 appropriate inclusion in the removal and evaluation process, as  
81 defined in the district policy. Nothing in this paragraph should  
82 be defined in a manner to circumvent the principal's or the  
83 superintendent's authority to remove a student to alternative  
84 education.

85           (3) The local school board or the superintendent shall  
86 provide for the continuing education of a student who has been  
87 removed to an alternative school program.

88           (4) A school district, in its discretion, may provide a  
89 program of general educational development (GED) preparatory  
90 instruction in the alternative school program. However, any GED  
91 preparation program offered in an alternative school program must  
92 be administered in compliance with the rules and regulations



93 established for such programs under Sections 37-35-1 through  
94 37-35-11 and by the State Board for Community and Junior Colleges.  
95 The school district may administer the General Educational  
96 Development (GED) Testing Program under the policies and  
97 guidelines of the GED Testing Service of the American Council on  
98 Education in the alternative school program or may authorize the  
99 test to be administered through the community/junior college  
100 district in which the alternative school is situated.

101 (5) Any such alternative school program operated under the  
102 authority of this section shall meet all appropriate accreditation  
103 requirements of the State Department of Education.

104 (6) The alternative school program may be held within such  
105 school district or may be operated by two (2) or more adjacent  
106 school districts, pursuant to a contract approved by the State  
107 Board of Education. When two (2) or more school districts  
108 contract to operate an alternative school program, the school  
109 board of a district designated to be the lead district shall serve  
110 as the governing board of the alternative school program.  
111 Transportation for students attending the alternative school  
112 program shall be the responsibility of the local school district.  
113 The expense of establishing, maintaining and operating such  
114 alternative school program may be paid from funds contributed or  
115 otherwise made available to the school district for such purpose  
116 or from local district maintenance funds.

117 (7) The State Board of Education shall promulgate minimum  
118 guidelines for alternative school programs. The guidelines shall  
119 require, at a minimum, the formulation of an individual  
120 instruction plan for each student referred to the alternative  
121 school program and, upon a determination that it is in a student's  
122 best interest for that student to receive general educational  
123 development (GED) preparatory instruction, that the local school  
124 board assign the student to a GED preparatory program established  
125 under subsection (4) of this section. The minimum guidelines for



126 alternative school programs shall also require the following  
127 components:

128 (a) Clear guidelines and procedures for placement of  
129 students into alternative education programs which at a minimum  
130 shall prescribe due process procedures for disciplinary and  
131 general educational development (GED) placement;

132 (b) Clear and consistent goals for students and  
133 parents;

134 (c) Curricula addressing cultural and learning style  
135 differences;

136 (d) Direct supervision of all activities on a closed  
137 campus;

138 (e) Attendance requirements that allow for educational  
139 and workforce development opportunities;

140 (f) Selection of program from options provided by the  
141 local school district, Division of Youth Services or the youth  
142 court, including transfer to a community-based alternative school;

143 (g) Continual monitoring and evaluation and formalized  
144 passage from one (1) step or program to another;

145 (h) A motivated and culturally diverse staff;

146 (i) Counseling for parents and students;

147 (j) Administrative and community support for the  
148 program; and

149 (k) Clear procedures for annual alternative school  
150 program review and evaluation.

151 (8) On request of a school district, the State Department of  
152 Education shall provide the district informational material on  
153 developing an alternative school program that takes into  
154 consideration size, wealth and existing facilities in determining  
155 a program best suited to a district.

156 (9) Any compulsory-school-age child who becomes involved in  
157 any criminal or violent behavior shall be removed from such



158 alternative school program and, if probable cause exists, a case  
159 shall be referred to the youth court.

160 (10) The State Board of Education shall promulgate  
161 guidelines for alternative school programs which provide broad  
162 authority to school boards of local school districts to establish  
163 alternative education programs to meet the specific needs of the  
164 school district.

165 (11) Each school district having an alternative school  
166 program shall submit a report annually to the State Department of  
167 Education describing the results of its annual alternative school  
168 program review and evaluation undertaken pursuant to subsection  
169 (7)(k). The report shall include a detailed account of any  
170 actions taken by the school district during the previous year to  
171 comply with substantive guidelines promulgated by the State Board  
172 of Education under subsection (7)(a) through (j).

173 **SECTION 2.** This act shall take effect and be in force from  
174 and after July 1, 2011.

