

By: Senator(s) Frazier, White (5th)

To: Judiciary

SENATE BILL NO. 2901
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 99-37-25, MISSISSIPPI CODE OF 1972,
2 TO CLARIFY RESPONSIBILITY FOR PAYMENT OF MEDICAL EXAMINATION OF
3 SEXUAL ASSAULT VICTIMS; TO AMEND SECTION 97-3-101, MISSISSIPPI
4 CODE OF 1972, TO REINSTATE THE FELONY PENALTY FOR SEXUAL BATTERY
5 OF A CHILD UNDER THE AGE OF 18 WHEN COMMITTED BY A PERSON IN A
6 POSITION OF TRUST OR AUTHORITY OVER THE CHILD; AND FOR RELATED
7 PURPOSES. BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF
8 MISSISSIPPI:

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10 SECTION 1. Section 99-37-25, Mississippi Code of 1972, is
11 amended as follows:

12 99-37-25. (1) (a) When a person is brought into a doctor's
13 office, a hospital or a medical clinic in this state by a law
14 enforcement agency as the victim of an alleged rape or sexual
15 assault, or comes into a doctor's office, a hospital or a medical
16 clinic in the state alleging rape or sexual assault against the
17 person which results in a criminal investigation, the bill for the
18 initial medical examination and the preparation of the rape kit
19 will be sent to the district attorney who has jurisdiction over
20 the prosecution of the alleged occurrence. The county in which
21 the alleged offense occurred shall pay for the initial medical
22 examination conducted for the procurement of evidence to aid in
23 the investigation and prosecution of the alleged offense. Such
24 payment shall be limited to the customary and usual hospital and
25 physician charges for such services in the area. Such payment
26 shall be made by the county directly to the health care provider.
27 No bill for the initial examination will be submitted to the
28 victim, nor shall the medical facility hold the victim responsible
29 for payment. However, if the victim refuses to cooperate with the

30 investigation or prosecution of the case, the county may seek
31 reimbursement from the victim. The victim may be billed for any
32 further medical services not required for the investigation and
33 prosecution of the alleged offense. In cases where the damage
34 caused by the alleged rape or sexual assault requires medical
35 treatment or diagnosis in addition to the initial examination, the
36 patient will be given information about the availability of victim
37 compensation and the procedure for applying for such compensation.

38 (b) Upon application submitted by the district
39 attorney, * * * provided the proper warrant or court order has
40 been issued, the county in which an offense of rape or of
41 felonious abuse or battery of a child as described in Section
42 97-5-39, touching or handling a child for lustful purposes as
43 described in Section 97-5-23, exploitation of children as
44 described in Section 97-5-33 or sexual battery as described in
45 Section 97-3-95, or an attempt to commit such offense has occurred
46 shall pay for a medical examination of the person arrested,
47 charged or convicted of such offense to determine if the person so
48 arrested, charged or convicted has any sexually transmitted
49 disease. Such payment shall be made by the county directly to the
50 health care provider or other service performing the tests. The
51 results of such test shall be made available to the victim or, if
52 the victim is a child, to the guardian of the victim.

53 (2) Any defendant who is convicted of, or pleads guilty or
54 nolo contendere to, an offense in violation of rape, felonious
55 abuse or battery of a child as described in Section 97-5-39,
56 touching or handling a child for lustful purposes as described in
57 Section 97-5-23, exploitation of children as described in Section
58 97-5-33 or sexual battery as described in Section 97-3-95, or an
59 attempt to commit any such offense, shall be ordered by the court
60 to make restitution to the county in an amount equal to the
61 compensation paid by the county to the victim or medical provider
62 for the initial medical examination and tests for sexually
63 transmitted diseases. Such restitution shall be in addition to
64 any restitution which the court orders the defendant to pay the
65 victim under the provisions of Chapter 37 of Title 99, (Sections
66 99-37-1 through 99-37-21), Mississippi Code of 1972.

67 (3) The board of supervisors of any county is hereby
68 authorized, in its discretion, to make application for and comply
69 with such requirements as may be necessary to qualify for any
70 federal funds as may be made available through the Department of
71 Criminal Justice Planning as a result of services rendered to
72 crime victims under the provisions of this section.

73 SECTION 2. Section 97-3-101, Mississippi Code of 1972, is
74 amended as follows:

75 97-3-101. (1) Every person who shall be convicted of sexual
76 battery under Section 97-3-95(1)(a), (b), or (2) shall be
77 imprisoned in the State Penitentiary for a period of not more than
78 thirty (30) years, and for a second or subsequent such
79 offense shall be imprisoned in the penitentiary for not more than
80 forty (40) years.

81 (2) (a) Every person who shall be convicted of sexual
82 battery under Section 97-3-95(1)(c) who is at least eighteen (18)
83 but under twenty-one (21) years of age shall be imprisoned for not
84 more than five (5) years in the State Penitentiary or fined not
85 more than Five Thousand Dollars (\$5,000.00), or both;

86 (b) Every person who shall be convicted of sexual
87 battery under Section 97-3-95(1)(c) who is twenty-one (21) years
88 of age or older shall be imprisoned not more than thirty (30)
89 years in the State Penitentiary or fined not more than Ten
90 Thousand Dollars (\$10,000.00), or both, for the first offense, and
91 not more than forty (40) years in the State Penitentiary for each
92 subsequent offense.

93 (3) Every person who shall be convicted of sexual battery
94 under Section 97-3-95(1)(d) who is eighteen (18) years of age or
95 older shall be imprisoned for life in the State Penitentiary or
96 such lesser term of imprisonment as the court may determine, but
97 not less than twenty (20) years.

98 (4) Every person who shall be convicted of sexual battery
99 who is thirteen (13) years of age or older but under eighteen (18)

100 years of age shall be sentenced to such imprisonment, fine or
101 other sentence as the court, in its discretion, may determine.

102 SECTION 3. Section 2 of this act shall take effect and be in
103 force from and after passage, and the remainder of this act shall
104 take effect and be in force from and after July 1, 1999.