

By: Johnson (19th)

To: Judiciary

SENATE BILL NO. 2087

1 AN ACT TO AMEND SECTION 97-3-65, MISSISSIPPI CODE OF 1972, TO
2 REQUIRE CHEMICAL CASTRATION FOR CERTAIN PERSONS CONVICTED OF RAPE
3 OF CHILDREN; TO AMEND SECTION 97-3-101, MISSISSIPPI CODE OF 1972,
4 FOR CERTAIN PERSONS CONVICTED OF SEXUAL BATTERY OF CHILDREN; TO
5 AMEND SECTION 97-5-23, MISSISSIPPI CODE OF 1972, TO REQUIRE
6 CHEMICAL CASTRATION FOR CERTAIN PERSONS CONVICTED OF GRATIFICATION
7 OF LUST; TO AMEND SECTION 97-5-35, MISSISSIPPI CODE OF 1972, TO
8 REQUIRE CHEMICAL CASTRATION FOR CERTAIN PERSONS CONVICTED OF
9 EXPLOITATION OF CHILDREN; TO AMEND SECTION 97-5-41, MISSISSIPPI
10 CODE OF 1972, TO REQUIRE CHEMICAL CASTRATION FOR CERTAIN PERSONS
11 CONVICTED OF CARNAL KNOWLEDGE OF A STEPCHILD OR ADOPTED CHILD OR
12 THE CHILD OF A COHABITING PARTNER; AND FOR RELATED PURPOSES.

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

14 SECTION 1. Section 97-3-65, Mississippi Code of 1972, is
15 amended as follows:

16 97-3-65. (1) The crime of statutory rape is committed when:

17 (a) Any person seventeen (17) years of age or older has
18 sexual intercourse with a child who:

19 (i) Is at least fourteen (14) but under sixteen
20 (16) years of age;

21 (ii) Is thirty-six (36) or more months younger
22 than the person; and

23 (iii) Is not the person's spouse; or

24 (b) A person of any age has sexual intercourse with a
25 child who:

26 (i) Is under the age of fourteen (14) years;

(ii) Is twenty-four (24) or more months younger than the person; and

(iii) Is not the person's spouse.

(c) Neither the victim's consent nor the victim's lack of chastity is a defense to a charge of statutory rape.

(2) Upon conviction for statutory rape, the defendant shall be sentenced as follows:

(a) If eighteen (18) years of age or older, but under twenty-one (21) years of age, and convicted under paragraph (1)(a) of this section, to imprisonment for not more than five (5) years in the State Penitentiary or a fine of not more than Five Thousand Dollars (\$5,000.00), or both;

(b) If twenty-one (21) years of age or older and convicted under paragraph (1)(a) of this section, to imprisonment of not more than thirty (30) years in the State Penitentiary or a fine of not more than Ten Thousand Dollars (\$10,000.00), or both, for the first offense, and not more than forty (40) years in the State Penitentiary for each subsequent offense;

(c) If eighteen (18) years of age or older and convicted under paragraph (1)(b) of this section, to imprisonment for life in the State Penitentiary or such lesser term of imprisonment as the court may determine, but not less than twenty (20) years.

(d) If thirteen (13) years of age or older but under eighteen (18) years of age and convicted under paragraph (1)(a) or (1)(b) of this section, such imprisonment, fine or other sentence as the court, in its discretion, may determine.

(e) Every person age twenty-seven (27) or older convicted for statutory rape, upon release from confinement for whatever reason, shall undergo medroxyprogesterone acetate treatment or its chemical equivalent in addition to all other

58 punishment imposed.

59 (i) Any person required to undergo
60 medroxyprogesterone acetate treatment or its chemical equivalent
61 shall be subject to the treatment for the term of that person's
62 natural life absent any finding by the Department of Corrections
63 that this treatment is no longer necessary.

64 (ii) The person shall begin medroxyprogesterone
65 acetate treatment one (1) week prior to release from confinement
66 and shall continue treatments until the Department of Corrections
67 demonstrates that this treatment is no longer necessary.

68 (iii) If a person voluntarily undergoes a
69 permanent, surgical alternative to hormonal chemical treatment for
70 sex offenders, he or she shall not be required to undergo the
71 hormonal treatment.

72 (iv) The Department of Corrections shall
73 administer this paragraph (e) and implement the protocols
74 required. These protocols shall include, but not be limited to, a
75 requirement to inform the person about the effect of hormonal
76 chemical treatment and any side effects that may result from it.
77 A person subject to this paragraph shall acknowledge the receipt
78 of this information.

79 (3) (a) Every person who shall have forcible sexual
80 intercourse with any person, or who shall have sexual intercourse
81 not constituting forcible sexual intercourse or statutory rape
82 with any person without that person's consent by administering to
83 such person any substance or liquid which shall produce such
84 stupor or such imbecility of mind or weakness of body as to
85 prevent effectual resistance, upon conviction, shall be imprisoned

86 for life in the State Penitentiary if the jury by its verdict so
87 prescribes; and in cases where the jury fails to fix the penalty
88 at life imprisonment, the court shall fix the penalty at
89 imprisonment in the State Penitentiary for any term as the court,
90 in its discretion, may determine.

91 (b) This subsection (3) shall apply whether the
92 perpetrator is married to the victim or not.

93 (4) In all cases where a victim is under the age of sixteen
94 (16) years, it shall not be necessary to prove penetration where
95 it is shown the genitals, anus or perineum of the child have been
96 lacerated or torn in the attempt to have sexual intercourse with
97 the child.

98 (5) For the purposes of this section, "sexual intercourse"
99 shall mean a joining of the sexual organs of a male and female
100 human being in which the penis of the male is inserted into the
101 vagina of the female.

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

104 97-3-101. (1) Every person who shall be convicted of sexual
105 battery under Section 97-3-95(1)(a), (b), or (2) shall be
106 imprisoned in the State Penitentiary for a period of not more than
107 thirty (30) years, and for a second or subsequent such offense
108 shall be imprisoned in the penitentiary for not more than forty
109 (40) years.

110 (2) (a) Every person who shall be convicted of sexual
111 battery under Section 97-3-95(1)(c) who is at least eighteen (18)
112 but under twenty-one (21) years of age shall be imprisoned for not
113 more than five (5) years in the State Penitentiary or fined not

more than Five Thousand Dollars (\$5,000.00), or both;

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

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

(4) Every person who shall be convicted of sexual battery under Section 97-3-95(1)(c) or (d) who is twenty-seven (27) years of age or older, upon release from confinement for whatever reason, shall undergo medroxyprogesterone acetate treatment or its chemical equivalent, in addition to any other punishment imposed.

(5) (a) Any person required to undergo medroxyprogesterone acetate treatment or its chemical equivalent shall be subject to the treatment for the term of that person's natural life absent any finding by the Department of Corrections that this treatment is no longer necessary.

(b) The person shall begin medroxyprogesterone acetate treatment one (1) week prior to release from confinement and shall continue treatments until the Department of Corrections demonstrates that this treatment is no longer necessary.

(c) If a person voluntarily undergoes a permanent,

surgical alternative to hormonal chemical treatment for sex offenders, he or she shall not be required to undergo the hormonal treatment.

(d) The Department of Corrections shall administer this subsection (5) and implement the protocols required by this subsection. These protocols shall include, but not be limited to, a requirement to inform the person about the effect of hormonal chemical treatment and any side effects that may result from it. A person subject to this subsection shall acknowledge the receipt of this information.

(6) Every person who shall be convicted of sexual battery who is thirteen (13) years of age or older but under eighteen (18) years of age shall be sentenced to such imprisonment, fine or other sentence as the court, in its discretion, may determine.

SECTION 3. Section 97-5-23, Mississippi Code of 1972, is amended as follows:

97-5-23. (1) Any person above the age of eighteen (18) years, who, for the purpose of gratifying his or her lust, or indulging his or her depraved licentious sexual desires, shall handle, touch or rub with hands or any part of his or her body or any member thereof, any child under the age of sixteen (16) years, with or without the child's consent, or a mentally defective, mentally incapacitated or physically helpless person as defined in Section 97-3-97, shall be guilty of a felony and, upon conviction thereof, shall be fined in a sum not less than One Thousand Dollars (\$1,000.00) nor more than Five Thousand Dollars (\$5,000.00), or be committed to the custody of the State Department of Corrections not less than two (2) years nor more

170 than fifteen (15) years, or be punished by both such fine and
171 imprisonment, at the discretion of the court.

172 (2) Any person above the age of eighteen (18) years, who,
173 for the purpose of gratifying his or her lust, or indulging his or
174 her depraved licentious sexual desires, shall handle, touch or rub
175 with hands or any part of his or her body or any member thereof,
176 any child younger than himself or herself and under the age of
177 eighteen (18) years who is not such person's spouse, with or
178 without the child's consent, when the person occupies a position
179 of trust or authority over the child shall be guilty of a felony
180 and, upon conviction thereof, shall be fined in a sum not less
181 than One Thousand Dollars (\$1,000.00) nor more than Five Thousand
182 Dollars (\$5,000.00), or be committed to the custody of the State
183 Department of Corrections not less than two (2) years nor more
184 than fifteen (15) years, or be punished by both such fine and
185 imprisonment, at the discretion of the court. A person in a
186 position of trust or authority over a child includes without
187 limitation a child's teacher, counselor, physician, psychiatrist,
188 psychologist, minister, priest, physical therapist, chiropractor,
189 legal guardian, parent, stepparent, aunt, uncle, scout leader or
190 coach.

191 (3) Upon a second conviction for an offense under this
192 section, the person so convicted shall be punished by commitment
193 to the State Department of Corrections for a term not to exceed
194 twenty (20) years, however, upon conviction and sentencing, the
195 offender shall serve at least one-half (1/2) of the sentence so
196 imposed.

197 (4) Every person who shall be convicted under this section

who is twenty-seven (27) years of age or older, upon release from confinement for whatever reason, shall undergo medroxyprogesterone acetate treatment or its chemical equivalent, in addition to any other punishment imposed.

(5) (a) Any person required to undergo medroxyprogesterone acetate treatment or its chemical equivalent shall be subject to the treatment for the term of that person's natural life absent any finding by the Department of Corrections that this treatment is no longer necessary.

(b) The person shall begin medroxyprogesterone acetate treatment one (1) week prior to release from confinement and shall continue treatments until the Department of Corrections demonstrates that this treatment is no longer necessary.

(c) If a person voluntarily undergoes a permanent, surgical alternative to hormonal chemical treatment for sex offenders, he or she shall not be required to undergo the hormonal treatment.

(d) The Department of Corrections shall administer this subsection (5) and implement the protocols required by this subsection. These protocols shall include, but not be limited to, a requirement to inform the person about the effect of hormonal chemical treatment and any side effects that may result from it. A person subject to this subsection shall acknowledge the receipt of this information.

SECTION 4. Section 97-5-35, Mississippi Code of 1972, is amended as follows:

97-5-35. (1) Any person who violates any provision of Section 97-5-33 shall be guilty of a felony and upon conviction

shall pay a fine of not less than Twenty-five Thousand Dollars (\$25,000.00) nor more than One Hundred Thousand Dollars (\$100,000.00) and shall be imprisoned for not less than two (2) years nor more than twenty (20) years. Any person convicted of a second or subsequent violation of Section 97-5-33 shall pay a fine of not less than Seventy-five Thousand Dollars (\$75,000.00) and shall be imprisoned not less than ten (10) years nor more than thirty (30) years. Every person who shall be convicted under this section who is twenty-seven (27) years of age or older, upon release from confinement for whatever reason, shall undergo medroxyprogesterone acetate treatment or its chemical equivalent, in addition to any other punishment imposed.

(2) (a) Any person required to undergo medroxyprogesterone acetate treatment or its chemical equivalent shall be subject to the treatment for the term of that person's natural life absent any finding by the Department of Corrections that this treatment is no longer necessary.

(b) The person shall begin medroxyprogesterone acetate treatment one (1) week prior to release from confinement and shall continue treatments until the Department of Corrections demonstrates that this treatment is no longer necessary.

(c) If a person voluntarily undergoes a permanent, surgical alternative to hormonal chemical treatment for sex offenders, he or she shall not be required to undergo the hormonal treatment.

(d) The Department of Corrections shall administer this subsection (2) and implement the protocols required by this subsection. These protocols shall include, but not be limited to,

a requirement to inform the person about the effect of hormonal
chemical treatment and any side effects that may result from it.
A person subject to this subsection shall acknowledge the receipt
of this information.

SECTION 5. Section 97-5-41, Mississippi Code of 1972, is
amended as follows:

97-5-41. (1) Any person who shall have carnal knowledge of
his or her unmarried stepchild or adopted child younger than
himself or herself and over fourteen (14) and under eighteen (18)
years of age, upon conviction, shall be punished by imprisonment
in the penitentiary for a term not exceeding ten (10) years.

(2) Any person who shall have carnal knowledge of an
unmarried child younger than himself or herself and over fourteen
(14) and under eighteen (18) years of age, with whose parent he or
she is cohabiting or living together as husband and wife, upon
conviction, shall be punished by imprisonment in the penitentiary
for a term not exceeding ten (10) years.

(3) Every person who shall be convicted under this section
who is twenty-seven (27) years of age or older, upon release from
confinement for whatever reason, shall undergo medroxyprogesterone
acetate treatment or its chemical equivalent, in addition to any
other punishment imposed.

(4) (a) Any person required to undergo medroxyprogesterone
acetate treatment or its chemical equivalent shall be subject to
the treatment for the term of that person's natural life absent
any finding by the Department of Corrections that this treatment
is no longer necessary.

(b) The person shall begin medroxyprogesterone acetate

282 treatment one (1) week prior to release from confinement and shall
283 continue treatments until the Department of Corrections
284 demonstrates that this treatment is no longer necessary.

285 (c) If a person voluntarily undergoes a permanent,
286 surgical alternative to hormonal chemical treatment for sex
287 offenders, he or she shall not be required to undergo the hormonal
288 treatment.

289 (d) The Department of Corrections shall administer this
290 subsection (4) and implement the protocols required by this
291 subsection. These protocols shall include, but not be limited to,
292 a requirement to inform the person about the effect of hormonal
293 chemical treatment and any side effects that may result from it.
294 A person subject to this subsection shall acknowledge the receipt
295 of this information.

296 SECTION 6. This act shall take effect and be in force from
297 and after its passage.