

By: Senator(s) Smith

To: Judiciary

SENATE BILL NO. 2157

1 AN ACT TO AMEND SECTIONS 97-3-65 AND 97-3-101, MISSISSIPPI  
2 CODE OF 1972, TO ENACT A MINIMUM LENGTH OF INCARCERATION FOR RAPE  
3 OR SEXUAL BATTERY OCCURRING IN A CORRECTIONAL FACILITY; AND FOR  
4 RELATED PURPOSES.

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

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

8 97-3-65. (1) The crime of statutory rape is committed when:

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

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

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

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

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

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

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

21 (iii) Is not the person's spouse.

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

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

26 (a) If eighteen (18) years of age or older, but under  
27 twenty-one (21) years of age, and convicted under paragraph (1)(a)  
28 of this section, to imprisonment for not more than five (5) years



29 in the State Penitentiary or a fine of not more than Five Thousand  
30 Dollars (\$5,000.00), or both;

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

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

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

46 (3) (a) Every person who shall have forcible sexual  
47 intercourse with any person, or who shall have sexual intercourse  
48 not constituting forcible sexual intercourse or statutory rape  
49 with any person without that person's consent by administering to  
50 such person any substance or liquid which shall produce such  
51 stupor or such imbecility of mind or weakness of body as to  
52 prevent effectual resistance, upon conviction, shall be imprisoned  
53 for life in the State Penitentiary if the jury by its verdict so  
54 prescribes; and in cases where the jury fails to fix the penalty  
55 at life imprisonment, the court shall fix the penalty at  
56 imprisonment in the State Penitentiary for any term as the court,  
57 in its discretion, may determine. Provided, however, any sentence  
58 imposed under this subsection (3) for rape occurring at any city  
59 or county jail or at any correctional facility operated by or  
60 under contract to the Mississippi Department of Corrections shall  
61 be for a period of not less than twenty (20) years.



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

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

69 (5) For the purposes of this section, "sexual intercourse"  
70 shall mean a joining of the sexual organs of a male and female  
71 human being in which the penis of the male is inserted into the  
72 vagina of the female.

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 offense  
79 shall be imprisoned in the penitentiary for not more than forty  
80 (40) years. Provided, however, any sentence imposed under this  
81 subsection (1) for sexual battery occurring at any city or county  
82 jail or at any correctional facility operated by or under contract  
83 to the Mississippi Department of Corrections shall be for a period  
84 of not less than twenty (20) years.

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

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



95 not more than forty (40) years in the State Penitentiary for each  
96 subsequent offense.

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

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

106 SECTION 3. This act shall take effect and be in force from  
107 and after July 1, 2001.

