

By: Representatives Moore, Chism

To: Judiciary B

HOUSE BILL NO. 1154

1 AN ACT TO AMEND SECTIONS 97-3-65 AND 97-3-101, MISSISSIPPI  
2 CODE OF 1972, TO REVISE THE PENALTIES FOR STATUTORY RAPE AND  
3 SEXUAL BATTERY; AND FOR RELATED PURPOSES.

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

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

7 97-3-65. (1) The crime of statutory rape is committed when:

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

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

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

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

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

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

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

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

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

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

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

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

30 (b) If twenty-one (21) years of age or older and  
31 convicted under paragraph (1)(a) of this section, to imprisonment  
32 of up to life imprisonment in the State Penitentiary \* \* \*;

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

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

42 (4) (a) Every person who shall have forcible sexual  
43 intercourse with any person, or who shall have sexual intercourse  
44 not constituting forcible sexual intercourse or statutory rape  
45 with any person without that person's consent by administering to  
46 such person any substance or liquid which shall produce such  
47 stupor or such imbecility of mind or weakness of body as to  
48 prevent effectual resistance, upon conviction, shall be imprisoned  
49 for life in the State Penitentiary if the jury by its verdict so  
50 prescribes; and in cases where the jury fails to fix the penalty  
51 at life imprisonment, the court shall fix the penalty at  
52 imprisonment in the State Penitentiary for any term as the court,  
53 in its discretion, may determine.

54 (b) This subsection (4) shall apply whether the  
55 perpetrator is married to the victim or not.

56 (5) In all cases where a victim is under the age of sixteen  
57 (16) years, it shall not be necessary to prove penetration where  
58 it is shown the genitals, anus or perineum of the child have been  
59 lacerated or torn in the attempt to have sexual intercourse with  
60 the child.

61 (6) For the purposes of this section, "sexual intercourse"  
62 shall mean a joining of the sexual organs of a male and female  
63 human being in which the penis of the male is inserted into the  
64 vagina of the female.

65 **SECTION 2.** Section 97-3-101, Mississippi Code of 1972, is  
66 amended as follows:

67 97-3-101. (1) Every person who shall be convicted of sexual  
68 battery under Section 97-3-95(1)(a), (b), or (2) shall be  
69 imprisoned in the State Penitentiary for a period of not more than  
70 thirty (30) years, and for a second or subsequent such offense  
71 shall be imprisoned in the penitentiary for not more than forty  
72 (40) years.

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

78 (b) Every person who shall be convicted of sexual  
79 battery under Section 97-3-95(1)(c) who is twenty-one (21) years  
80 of age or older shall be imprisoned for life in the State  
81 Penitentiary \* \* \*.

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

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

91 **SECTION 3.** This act shall take effect and be in force from  
92 and after July 1, 2004.