

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.