

By: Senator(s) Walls

To: Judiciary, Division A

SENATE BILL NO. 2644

1 AN ACT TO AMEND SECTION 97-3-65, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE THAT THE RAPE OF A CHILD UNDER 14 MUST BE KNOWING AND
3 WILLFUL, AMONG OTHER ELEMENTS, IN ORDER TO CONVICT; 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
10 knowingly and willfully has 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 knowingly and willfully has
17 sexual intercourse with a 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 (2) Neither the victim's consent nor the victim's lack of
23 chastity is a defense to a charge of statutory rape.

24 (3) 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 subsection

28 (1)(a) of this section, to imprisonment for not more than five (5)

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

31 (b) If twenty-one (21) years of age or older and
32 convicted under subsection (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 subsection (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 subsection (1)(a)
44 or (1)(b) of this section, such imprisonment, fine or other
45 sentence as the court, in its discretion, may determine.

46 (4) (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.

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

60 (5) In all cases where a victim is under the age of sixteen
61 (16) years, it shall not be necessary to prove penetration where

62 it is shown the genitals, anus or perineum of the child have been
63 lacerated or torn in the attempt to have sexual intercourse with
64 the child.

65 (6) For the purposes of this section, "sexual intercourse"
66 shall mean a joining of the sexual organs of a male and female
67 human being in which the penis of the male is inserted into the
68 vagina of the female.

69 **SECTION 2.** This act shall take effect and be in force from
70 and after its passage.