

By: Senator(s) Tollison

To: Judiciary, Division A

SENATE BILL NO. 2899

1 AN ACT TO AMEND SECTIONS 97-3-65 AND 97-3-101, MISSISSIPPI  
2 CODE OF 1972, TO REVISE THE TERM OF IMPRISONMENT FOR RAPE OR  
3 SEXUAL BATTERY OF A CHILD WHO IS UNDER THE AGE OF 12; 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 (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) (i) 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 unless the victim was under twelve (12) years of age,  
42 in which case the imprisonment shall be not less than twenty-five  
43 (25) years;

44 (ii) For a second or subsequent such offense where  
45 the victim was under twelve (12) years of age, the offender shall  
46 be committed to the custody of the Department of Corrections for a  
47 term of life without possibility of parole.

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

52 (4) (a) Every person who shall have forcible sexual  
53 intercourse with any person, or who shall have sexual intercourse  
54 not constituting forcible sexual intercourse or statutory rape  
55 with any person without that person's consent by administering to  
56 such person any substance or liquid which shall produce such  
57 stupor or such imbecility of mind or weakness of body as to  
58 prevent effectual resistance, upon conviction, shall be imprisoned  
59 for life in the State Penitentiary if the jury by its verdict so  
60 prescribes; and in cases where the jury fails to fix the penalty  
61 at life imprisonment, the court shall fix the penalty at

62 imprisonment in the State Penitentiary for any term as the court,  
63 in its discretion, may determine.

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

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

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

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

77 97-3-101. (1) Every person who shall be convicted of sexual  
78 battery under Section 97-3-95(1)(a), (b) or (2) shall be  
79 imprisoned in the State Penitentiary for a period of not more than  
80 thirty (30) years, and for a second or subsequent such offense  
81 shall be imprisoned in the penitentiary for not more than forty  
82 (40) years.

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

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

95           (3) (a) Every person who shall be convicted of sexual  
96 battery under Section 97-3-95(1)(d) who is eighteen (18) years of  
97 age or older shall be imprisoned for life in the State  
98 Penitentiary or such lesser term of imprisonment as the court may  
99 determine, but not less than twenty (20) years unless the victim  
100 is under twelve (12) years of age, in which case the imprisonment  
101 shall be for a term of not less than twenty-five (25) years;

102                   (b) For a second or subsequent such offense where the  
103 victim was under twelve (12) years of age, the offender shall be  
104 committed to the custody of the Department of Corrections for a  
105 term of life without possibility of parole.

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

110           **SECTION 3.** This act shall take effect and be in force from  
111 and after July 1, 2006.