

By: Senator(s) Tollison

To: Judiciary, Division A

COMMITTEE SUBSTITUTE
FOR
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 14; 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
41 twenty-five (25) years;

42 (ii) For a second or subsequent such offense, the
43 offender shall be committed to the custody of the Department of
44 Corrections for a term of life without possibility of parole.

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

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

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

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

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

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

74 97-3-101. (1) Every person who shall be convicted of sexual
75 battery under Section 97-3-95(1)(a), (b) or (2) shall be
76 imprisoned in the State Penitentiary for a period of not more than
77 thirty (30) years, and for a second or subsequent such offense
78 shall be imprisoned in the penitentiary for not more than forty
79 (40) years.

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

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

92 (3) (a) Every person who shall be convicted of sexual
93 battery under Section 97-3-95(1)(d) who is eighteen (18) years of

94 age or older shall be imprisoned for life in the State
95 Penitentiary or such lesser term of imprisonment as the court may
96 determine, but not less than twenty-five (25) years.

97 (b) For a second or subsequent such offense, the
98 offender shall be committed to the custody of the Department of
99 Corrections for a term of life without possibility of parole.

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

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