

By: Senator(s) Walls

To: Judiciary, Division A

SENATE BILL NO. 2308

1 AN ACT TO AMEND SECTION 97-3-65, MISSISSIPPI CODE OF 1972, TO
2 REQUIRE KNOWLEDGE AND WILLFULLNESS IN ORDER TO CONVICT FOR
3 STATUTORY RAPE; 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
9 knowingly and willfully has 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 knowingly and willfully has
16 sexual intercourse with a 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 subsection

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

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

30 (b) If twenty-one (21) years of age or older and
31 convicted under subsection (1)(a) of this section, to imprisonment
32 of not more than thirty (30) years in the State Penitentiary or a
33 fine of not more than Ten Thousand Dollars (\$10,000.00), or both,
34 for the first offense, and not more than forty (40) years in the
35 State Penitentiary for each subsequent offense;

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

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

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

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

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

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

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

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