

By: Senator(s) Jackson (11th)

To: Judiciary, Division A

SENATE BILL NO. 2022

1 AN ACT TO AMEND SECTION 97-3-65, MISSISSIPPI CODE OF 1972, TO
 2 REVISE THE CRIME OF STATUTORY RAPE TO RELIEVE CHILDREN WHO ARE
 3 CLOSE IN AGE FROM CRIMINAL RESPONSIBILITY; TO AMEND SECTION
 4 97-3-101, MISSISSIPPI CODE OF 1972, TO REVISE THE CRIME OF SEXUAL
 5 BATTERY TO RELIEVE CHILDREN WHO ARE CLOSE IN AGE FROM CRIMINAL
 6 RESPONSIBILITY; AND FOR RELATED PURPOSES.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

8 **SECTION 1.** Section 97-3-65, Mississippi Code of 1972, is
 9 amended as follows:

10 97-3-65. (1) The crime of statutory rape is committed when:

11 (a) Any person * * * twenty-one (21) years of age or
 12 older has sexual intercourse with a child who:

13 (i) Is at least fourteen (14) but under sixteen
 14 (16) years of age;

15 (ii) Is thirty-six (36) or more months younger
 16 than the person; and

17 (iii) Is not the person's spouse; or

18 (b) A person of any age has sexual intercourse with a
 19 child who:

20 (i) Is under the age of fourteen (14) years;



21 (ii) Is twenty-four (24) or more months younger
22 than the person; and

23 (iii) Is not the person's spouse * * *; or

24 (c) Any person seventeen (17) years of age but under
25 twenty-one (21) years of age has sexual intercourse with a child
26 who:

27 (i) Is at least fourteen (14) but under sixteen
28 (16) years of age;

29 (ii) Is forty-eight (48) or more months younger
30 than the person; and

31 (iii) Is not the person's spouse.

32 (2) Neither the victim's consent nor the victim's lack of
33 chastity is a defense to a charge of statutory rape.

34 (3) Upon conviction for statutory rape, the defendant shall
35 be sentenced as follows:

36 (a) If eighteen (18) years of age or older, but under
37 twenty-one (21) years of age, and convicted under subsection
38 (1)(a) of this section, to imprisonment for not more than five (5)
39 years in the State Penitentiary or a fine of not more than Five
40 Thousand Dollars (\$5,000.00), or both;

41 (b) If twenty-one (21) years of age or older and
42 convicted under subsection (1)(a) of this section, to imprisonment
43 of not more than thirty (30) years in the State Penitentiary or a
44 fine of not more than Ten Thousand Dollars (\$10,000.00), or both,



45 for the first offense, and not more than forty (40) years in the
46 State Penitentiary for each subsequent offense;

47 (c) If eighteen (18) years of age or older and
48 convicted under subsection (1) * * * (c) of this section, to
49 imprisonment for life in the State Penitentiary or such lesser
50 term of imprisonment as the court may determine, but not less than
51 twenty (20) years;

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

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

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



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

75 (6) (a) Upon conviction under this section, the court may
76 issue a criminal sexual assault protection order prohibiting the
77 offender from any contact with the victim, without regard to the
78 relationship between the victim and offender. The court may
79 include in a criminal sexual assault protection order any relief
80 available under Section 93-21-15. The term of a criminal sexual
81 assault protection order shall be for a time period determined by
82 the court, but all orders shall, at a minimum, remain in effect
83 for a period of two (2) years after the expiration of any sentence
84 of imprisonment and subsequent period of community supervision,
85 conditional release, probation, or parole. Upon issuance of a
86 criminal sexual assault protection order, the clerk of the issuing
87 court shall enter the order in the Mississippi Protection Order
88 Registry within twenty-four (24) hours of issuance, with no
89 exceptions for weekends or holidays as provided in Section
90 93-21-25, and a copy must be provided to both the victim and
91 offender.

92 (b) Criminal sexual assault protection orders shall be
93 issued on the standardized form developed by the Office of the
94 Attorney General.



95 (c) It is a misdemeanor to knowingly violate any
96 condition of a criminal sexual assault protection order. Upon
97 conviction for a violation, the defendant shall be punished by a
98 fine of not more than Five Hundred Dollars (\$500.00) or by
99 imprisonment in the county jail for not more than six (6) months,
100 or both. Any sentence imposed for the violation of a criminal
101 sexual assault protection order shall run consecutively to any
102 other sentences imposed on the offender. The court shall also be
103 empowered to extend the criminal sexual assault protection order
104 for a period of one (1) year for each violation. The
105 incarceration of a person at the time of the violation is not a
106 bar to prosecution under this section. Nothing in this subsection
107 shall be construed to prohibit the imposition of any other
108 penalties or disciplinary action otherwise allowed by law or
109 policy.

110 (7) For the purposes of this section, "sexual intercourse"
111 shall mean a joining of the sexual organs of a male and female
112 human being in which the penis of the male is inserted into the
113 vagina of the female or the penetration of the sexual organs of a
114 male or female human being in which the penis or an object is
115 inserted into the genitals, anus or perineum of a male or female.

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

118 97-3-101. (1) Every person who shall be convicted of sexual
119 battery under Section 97-3-95(1) (a), (b) or (2) shall be



120 imprisoned in the State Penitentiary for a period of not more than
121 thirty (30) years, and for a second or subsequent such offense
122 shall be imprisoned in the Penitentiary for not more than forty
123 (40) years.

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

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

136 (3) Every person who shall be convicted of sexual battery
137 under Section 97-3-95(1)(d) who is eighteen (18) years of age or
138 older shall be imprisoned for life in the State Penitentiary or
139 such lesser term of imprisonment as the court may determine, but
140 not less than twenty (20) years.

141 (4) Every person who shall be convicted of sexual battery
142 who is thirteen (13) years of age or older but under * * *
143 twenty-one (21) years of age and, for a person who is eighteen
144 (18), nineteen (19) or twenty (20) years of age and who is not



145 more than forty-eight (48) months older than the child shall be
146 sentenced to such imprisonment, fine or other sentence as the
147 court, in its discretion, may determine.

148 (5) (a) Upon conviction under this section, the court may
149 issue a criminal sexual assault protection order prohibiting the
150 offender from any contact with the victim, without regard to the
151 relationship between the victim and offender. The court may
152 include in a criminal sexual assault protection order any relief
153 available under Section 93-21-15. The term of a criminal sexual
154 assault protection order shall be for a time period determined by
155 the court, but all orders shall, at a minimum, remain in effect
156 for a period of two (2) years following the expiration of any
157 sentence of imprisonment and subsequent period of community
158 supervision, conditional release, probation, or parole. Upon
159 issuance of a criminal sexual assault protection order, the clerk
160 of the issuing court shall enter the order in the Mississippi
161 Protection Order Registry within twenty-four (24) hours of
162 issuance with no exceptions for weekends or holidays as provided
163 in Section 93-21-25, and a copy must be provided to both the
164 victim and offender.

165 (b) Criminal sexual assault protection orders shall be
166 issued on the standardized form developed by the Office of the
167 Attorney General.

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169 condition of a criminal sexual assault protection order. Upon



170 conviction for a violation, the defendant shall be punished by a
171 fine of not more than Five Hundred Dollars (\$500.00) or by
172 imprisonment in the county jail for not more than six (6) months,
173 or both. Any sentence imposed for the violation of a criminal
174 sexual assault protection order shall run consecutively to any
175 other sentences imposed on the offender. The court may extend the
176 criminal sexual assault protection order for a period of one (1)
177 year for each violation. The incarceration of a person at the
178 time of the violation is not a bar to prosecution under this
179 section. Nothing in this subsection shall be construed to
180 prohibit the imposition of any other penalties or disciplinary
181 action otherwise allowed by law or policy.

182 **SECTION 3.** This act shall take effect and be in force from
183 and after July 1, 2018.

