

By: Senator(s) Doty, Barnett

To: Judiciary, Division A

## SENATE BILL NO. 2595

1 AN ACT TO AMEND SECTIONS 97-3-65, 97-3-95 AND 97-3-101,  
2 MISSISSIPPI CODE OF 1972, TO REVISE THE AGE AT WHICH A MINOR IS  
3 CAPABLE OF CONSENSUAL SEXUAL INTERCOURSE; AND FOR RELATED  
4 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 under  
9 circumstances not constituting rape under subsection (4) of this  
10 section when:

11 (a) \* \* \* A person \* \* \* eighteen (18) years of age or  
12 older has sexual intercourse with a child who:

13 (i) Is at least fourteen (14) but under \* \* \*  
14 eighteen (18) 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:



(i) Is under the age of fourteen (14) years;  
(ii) Is twenty-four (24) or more months younger than the person; and  
(iii) Is not the person's spouse.

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

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

(a) If eighteen (18) years of age or older, but under twenty-one (21) years of age, and convicted under subsection (1)(a) of this section, to imprisonment for not more than five (5) years in the \* \* \* custody of the Department of Corrections or a fine of not more than Five Thousand Dollars (\$5,000.00), or both;

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

(c) If eighteen (18) years of age or older and convicted under subsection (1)(b) of this section, to imprisonment for life in the \* \* \* custody of the Department of Corrections or such lesser term of imprisonment as the court may determine, but not less than twenty (20) years;



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) (i) Every person who \* \* \* has forcible sexual  
50 intercourse with any person \* \* \* is guilty of rape.

51 (ii) Every person who \* \* \* has sexual intercourse  
52 not constituting forcible sexual intercourse or statutory rape  
53 with any person without that person's consent by administering  
54 to \* \* \* the person any substance or liquid which shall produce  
55 such stupor or such imbecility of mind or weakness of body as to  
56 prevent effectual resistance \* \* \* is guilty of rape.

57 (iii) A person found guilty of rape shall be  
58 imprisoned for life in the \* \* \* custody of the Department of  
59 Corrections if the jury by its verdict so prescribes; and in cases  
60 where the jury fails to fix the penalty at life imprisonment, the  
61 court shall fix the penalty at imprisonment in the \* \* \* custody  
62 of the Department of Corrections for any term as the court, in its  
63 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



lacerated or torn in the attempt to have sexual intercourse with the child.

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

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

(c) It is a misdemeanor to knowingly violate any condition of a criminal sexual assault protection order. Upon conviction for a violation, the defendant shall be punished by a



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

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

112 **SECTION 2.** Section 97-3-95, Mississippi Code of 1972, is  
113 amended as follows:

114 97-3-95. \* \* \* A person is guilty of sexual battery if he or  
115 she engages in sexual penetration with:

- 116 (a) Another person without \* \* \* that person's consent;  
117 (b) A mentally defective, mentally incapacitated or  
118 physically helpless person;



(c) A child at least fourteen (14) but under \* \* \* eighteen (18) years of age, if the person is thirty-six (36) or more months older than the child; or

(d) A child under the age of fourteen (14) years of age, if the person is twenty-four (24) or more months older than the child.

\* \* \*

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

97-3-101. (1) Every person who shall be convicted of sexual battery under Section 97-3-95(1)(a), (b) or (2) shall be imprisoned in the \* \* \* custody of the Department of Corrections for a period of not more than thirty (30) years, and for a second or subsequent such offense shall be imprisoned in the \* \* \* custody of the Department of Corrections for not more than forty (40) years.

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

(b) Every person who \* \* \* is convicted of sexual battery under Section 97-3-95(1)(c) who is twenty-one (21) years of age or older shall be imprisoned not more than thirty (30)



144 years in the \* \* \* custody of the Department of Corrections or  
145 fined not more than Ten Thousand Dollars (\$10,000.00), or both,  
146 for the first offense, and not more than forty (40) years in  
147 the \* \* \* custody of the Department of Corrections for each  
148 subsequent offense.

149 (3) Every person who \* \* \* is convicted of sexual battery  
150 under Section 97-3-95(1)(d) who is eighteen (18) years of age or  
151 older shall be imprisoned for life in the \* \* \* custody of the  
152 Department of Corrections or such lesser term of imprisonment as  
153 the court may determine, but not less than twenty (20) years.

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

158 (5) (a) Upon conviction under this section, the court may  
159 issue a criminal sexual assault protection order prohibiting the  
160 offender from any contact with the victim, without regard to the  
161 relationship between the victim and offender. The court may  
162 include in a criminal sexual assault protection order any relief  
163 available under Section 93-21-15. The term of a criminal sexual  
164 assault protection order shall be for a time period determined by  
165 the court, but all orders shall, at a minimum, remain in effect  
166 for a period of two (2) years following the expiration of any  
167 sentence of imprisonment and subsequent period of community  
168 supervision, conditional release, probation, or parole. Upon



issuance of a criminal sexual assault protection order, the clerk of the issuing court shall enter the order in the Mississippi Protection Order Registry within twenty-four (24) hours of issuance with no exceptions for weekends or holidays as provided in Section 93-21-25, and a copy must be provided to both the victim and offender.

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

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

**SECTION 4.** This act shall take effect and be in force from and after July 1, 2018.

