

By: Representatives McLean, Stamps

To: Judiciary B

HOUSE BILL NO. 1080

1 AN ACT TO AMEND SECTION 97-3-69, MISSISSIPPI CODE OF 1972, TO  
2 REVISE THE EVIDENTIARY REQUIREMENTS FOR RAPE TRIALS; TO REPEAL  
3 SECTION 97-3-99, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR  
4 SPOUSAL RAPE; TO AMEND SECTION 97-3-65, MISSISSIPPI CODE OF 1972,  
5 TO CONFORM TO THE PRECEDING SECTION; TO BRING FORWARD SECTION  
6 97-3-68, MISSISSIPPI CODE OF 1972, WHICH PROVIDES THE EVIDENTIARY  
7 PROCEDURES FOR RAPE PROSECUTIONS; AND FOR RELATED PURPOSES.

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

9 **SECTION 1.** Section 97-3-69, Mississippi Code of 1972, is  
10 amended as follows:

11 97-3-69. In the trial of all cases under \* \* \* Section  
12 97-3-68, no person shall be convicted upon the uncorroborated  
13 testimony of the injured female.

14 **SECTION 2.** Section 97-3-99, Mississippi Code of 1972, which  
15 provides for spousal rape, is repealed.

16 **SECTION 3.** Section 97-3-65, Mississippi Code of 1972, is  
17 amended as follows:

18 97-3-65. (1) The crime of statutory rape is committed when:

19 (a) Any person seventeen (17) years of age or older has  
20 sexual intercourse with a child who:



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

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

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

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

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

29 (ii) Is twenty-four (24) or more months younger  
30 than the person \* \* \*.

31 \* \* \*

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) (b) of this section, to imprisonment  
49 for life in the State Penitentiary or such lesser term of  
50 imprisonment as the court may determine, but not less than twenty  
51 (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) of this section, such imprisonment, fine or other  
55 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 4.** Section 97-3-68, Mississippi Code of 1972, is  
117 brought forward as follows:

118 97-3-68. (1) In any prosecution for rape under Section  
119 97-3-65, 97-3-67 or 97-3-71, if evidence of sexual conduct of the



120 complaining witness is offered to attack the credibility of said  
121 complaining witness, the following procedure shall be followed:

122 (a) A written motion shall be made by the defendant to  
123 the court and prosecutor stating that the defense has an offer of  
124 proof of the relevancy of evidence of the sexual conduct of the  
125 complaining witness proposed to be presented and its relevancy in  
126 attacking the credibility of the complaining witness.

127 (b) The written motion shall be accompanied by an  
128 affidavit in which the offer of proof shall be stated.

129 (c) If the court finds that the offer of proof is  
130 sufficient, the court shall order a closed hearing in chambers,  
131 out of the presence of the jury, if any, and at such closed  
132 hearing allow the questioning of the complaining witness regarding  
133 the offer of proof made by the defendant.

134 (d) At the conclusion of the hearing, if the court  
135 finds that evidence proposed to be offered by the defendant  
136 regarding the sexual conduct of the complaining witness is  
137 relevant and otherwise admissible, the court may make an order  
138 stating what evidence may be introduced by the defendant, and the  
139 nature of the questions to be permitted. The defendant may then  
140 offer evidence pursuant to the order of the court.

141 (2) As used in this section and Section 97-3-70,  
142 "complaining witness" means the alleged victim of the crime  
143 charged, the prosecution of which is subject to this section.



144           **SECTION 5.** This act shall take effect and be in force from  
145 and after July 1, 2022.

