

By: Representative McLean

To: Judiciary B

HOUSE BILL NO. 1080  
(As Passed the House)

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; TO AMEND SECTION 97-3-71,  
8 MISSISSIPPI CODE OF 1972, TO CLARIFY THE ELEMENTS OF THE CRIME OF  
9 RAPE; TO AMEND SECTION 97-3-101, MISSISSIPPI CODE OF 1972, TO  
10 REVISE THE DEFINITION OF SEXUAL BATTERY; AND FOR RELATED PURPOSES.

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

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

14 97-3-69. In the trial of all cases under \* \* \* Section  
15 97-3-68, no person shall be convicted upon the uncorroborated  
16 testimony of the injured \* \* \* person.

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18 provides for spousal rape, is repealed.

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

21 97-3-65. (1) The crime of statutory rape is committed when:



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

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

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

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

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

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

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

34 \* \* \*

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

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

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

44 (b) If twenty-one (21) years of age or older and  
45 convicted under subsection (1)(a) of this section, to imprisonment  
46 of not more than thirty (30) years in the State Penitentiary or a



47 fine of not more than Ten Thousand Dollars (\$10,000.00), or both,  
48 for the first offense, and not more than forty (40) years in the  
49 State Penitentiary for each subsequent offense;

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

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

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



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

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

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



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

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

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



119           **SECTION 4.** Section 97-3-68, Mississippi Code of 1972, is  
120 brought forward as follows:

121           97-3-68. (1) In any prosecution for rape under Section  
122 97-3-65, 97-3-67 or 97-3-71, if evidence of sexual conduct of the  
123 complaining witness is offered to attack the credibility of said  
124 complaining witness, the following procedure shall be followed:

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

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

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

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



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

147 **SECTION 5.** Section 97-3-71, Mississippi Code of 1972, is  
148 amended as follows:

149 97-3-71. \* \* \* The penetration, no matter how slight, of the  
150 vagina or anus with any body part or object, or oral penetration  
151 by a sex organ of another person, whether or not his or her  
152 spouse, accomplished (a) against the complaining person's will, by  
153 force, threat or intimidation; (b) without the consent of the  
154 victim or (c) committed against a person who is physically or  
155 mentally helpless or incapacitated.

156 **SECTION 6.** Section 97-3-101, Mississippi Code of 1972, is  
157 amended as follows:

158 97-3-101. (1) Every person who shall be convicted of sexual  
159 battery under Section 97-3-95(1) (a), (b) or (2), or shall be  
160 convicted of rape under Section 97-3-71, shall be imprisoned in  
161 the State Penitentiary for a period of not more than thirty (30)  
162 years, and for a second or subsequent such offense shall be  
163 imprisoned in the Penitentiary for not more than forty (40) years.

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



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

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

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

185           (5) (a) Upon conviction under this section, the court may  
186 issue a criminal sexual assault protection order prohibiting the  
187 offender from any contact with the victim, without regard to the  
188 relationship between the victim and offender. The court may  
189 include in a criminal sexual assault protection order any relief  
190 available under Section 93-21-15. The term of a criminal sexual  
191 assault protection order shall be for a time period determined by  
192 the court, but all orders shall, at a minimum, remain in effect  
193 for a period of two (2) years following the expiration of any





194 sentence of imprisonment and subsequent period of community  
195 supervision, conditional release, probation, or parole. Upon  
196 issuance of a criminal sexual assault protection order, the clerk  
197 of the issuing court shall enter the order in the Mississippi  
198 Protection Order Registry within twenty-four (24) hours of  
199 issuance with no exceptions for weekends or holidays as provided  
200 in Section 93-21-25, and a copy must be provided to both the  
201 victim and offender.

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

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



219           **SECTION 7.** This act shall take effect and be in force from  
220 and after July 1, 2022.

