

By: Representative McLean

To: Judiciary B

HOUSE BILL NO. 1230

1 AN ACT TO AMEND SECTION 97-3-71, MISSISSIPPI CODE OF 1972, TO
2 CLARIFY THE ELEMENTS OF THE CRIME OF RAPE; TO AMEND SECTION
3 97-3-101, MISSISSIPPI CODE OF 1972, TO REVISE THE DEFINITION OF
4 SEXUAL BATTERY; AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** Section 97-3-71, Mississippi Code of 1972, is
7 amended as follows:

8 97-3-71. * * * The penetration, no matter how slight, of the
9 vagina or anus with any body part or object, or oral penetration
10 by a sex organ of another person, whether or not his or her
11 spouse, accomplished (a) against the complaining person's will, by
12 force, threat or intimidation; (b) without the consent of the
13 victim or (c) committed against a person who is physically or
14 mentally helpless or incapacitated.

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

17 97-3-101. (1) Every person who shall be convicted of sexual
18 battery under Section 97-3-95(1) (a), (b) or (2), or shall be
19 convicted of rape under Section 97-3-71, shall be imprisoned in



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

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

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

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

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



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

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

64 (c) It is a misdemeanor to knowingly violate any
65 condition of a criminal sexual assault protection order. Upon
66 conviction for a violation, the defendant shall be punished by a
67 fine of not more than Five Hundred Dollars (\$500.00) or by
68 imprisonment in the county jail for not more than six (6) months,



69 or both. Any sentence imposed for the violation of a criminal
70 sexual assault protection order shall run consecutively to any
71 other sentences imposed on the offender. The court may extend the
72 criminal sexual assault protection order for a period of one (1)
73 year for each violation. The incarceration of a person at the
74 time of the violation is not a bar to prosecution under this
75 section. Nothing in this subsection shall be construed to
76 prohibit the imposition of any other penalties or disciplinary
77 action otherwise allowed by law or policy.

78 **SECTION 3.** This act shall take effect and be in force from
79 and after July 1, 2022.

