

By: Senator(s) Fillingane

To: Judiciary, Division B

SENATE BILL NO. 2540

1 AN ACT TO AMEND SECTION 97-3-71, MISSISSIPPI CODE OF 1972, TO
2 REVISE THE CRIME OF RAPE; TO AMEND SECTION 97-3-101, MISSISSIPPI
3 CODE OF 1972, TO REVISE THE PENALTY FOR THE CRIME OF RAPE; TO
4 AMEND SECTION 97-3-69, MISSISSIPPI CODE OF 1972, TO CONFORM; TO
5 REPEAL SECTION 97-3-99, MISSISSIPPI CODE OF 1972, WHICH IS THE
6 PROVISION THAT PROVIDES A DEFENSE OF MARRIAGE TO CRIMES RELATED TO
7 SEXUAL BATTERY; AND FOR RELATED PURPOSES.

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

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

11 97-3-71. * * * The penetration, no matter how slight, of the
12 vagina or anus with any body part or object, or oral penetration
13 by a sex organ of another person, whether or not his or her
14 spouse, accomplished:

15 (a) Against the complaining witness's will, by force,
16 threat or intimidation; or

17 (b) Without the consent of the complaining witness; or

18 (c) Committed against the complaining witness who is
19 physically or mentally helpless, or incapacitated.



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

22 97-3-101. (1) Every person who shall be convicted of sexual
23 battery under Section 97-3-95(1) (a), (b) or (2) or who shall be
24 convicted of rape under Section 97-3-71 shall be imprisoned in the
25 State Penitentiary for a period of not more than thirty (30)
26 years, and for a second or subsequent such offense shall be
27 imprisoned in the Penitentiary for not more than forty (40) years.

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

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

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



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

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

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



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

83 **SECTION 3.** Section 97-3-69, Mississippi Code of 1972, is
84 amended as follows:

85 97-3-69. In the trial of all cases under * * * Section
86 97-3-68, it shall be presumed that the * * * complaining witness
87 was previously of chaste character, and the burden shall be upon
88 the defendant to show that * * * the complaining witness was
89 not * * *. No person shall be convicted upon the uncorroborated
90 testimony of the * * * complaining witness.

91 **SECTION 4.** Section 97-3-99, Mississippi Code of 1972, which
92 is the provision that provides a defense of marriage to crimes
93 related to sexual battery, is hereby repealed.



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

