

By: Representatives McLean, Arnold,  
Carpenter, Darnell, Owen

To: Judiciary A

HOUSE BILL NO. 995

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; TO BRING FORWARD SECTIONS  
11 97-3-95 AND SECTION 97-3-97, MISSISSIPPI CODE OF 1972, WHICH  
12 PROVIDE FOR THE CRIME OF SEXUAL BATTERY AND DEFINITIONS RELATED TO  
13 THE CRIME FOR PURPOSES OF AMENDMENT; AND FOR RELATED PURPOSES.

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

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

17 97-3-69. In the trial of all cases under \* \* \* Section  
18 97-3-68, no person shall be convicted upon the uncorroborated  
19 testimony of the injured \* \* \* person.

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21 provides for spousal rape, is repealed.

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



24 97-3-65. (1) The crime of statutory rape is committed when:

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

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

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

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

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

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

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

37 \* \* \*

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

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

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

47 (b) If twenty-one (21) years of age or older and  
48 convicted under subsection (1)(a) of this section, to imprisonment



49 of not more than thirty (30) years in the State Penitentiary or a  
50 fine of not more than Ten Thousand Dollars (\$10,000.00), or both,  
51 for the first offense, and not more than forty (40) years in the  
52 State Penitentiary for each subsequent offense;

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

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

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



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

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

81 (6) (a) Upon conviction under this section, the court may  
82 issue a criminal sexual assault protection order prohibiting the  
83 offender from any contact with the victim, without regard to the  
84 relationship between the victim and offender. The court may  
85 include in a criminal sexual assault protection order any relief  
86 available under Section 93-21-15. The term of a criminal sexual  
87 assault protection order shall be for a time period determined by  
88 the court, but all orders shall, at a minimum, remain in effect  
89 for a period of two (2) years after the expiration of any sentence  
90 of imprisonment and subsequent period of community supervision,  
91 conditional release, probation, or parole. Upon issuance of a  
92 criminal sexual assault protection order, the clerk of the issuing  
93 court shall enter the order in the Mississippi Protection Order  
94 Registry within twenty-four (24) hours of issuance, with no  
95 exceptions for weekends or holidays as provided in Section  
96 93-21-25, and a copy must be provided to both the victim and  
97 offender.



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

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

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



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

124           97-3-68. (1) In any prosecution for rape under Section  
125 97-3-65, 97-3-67 or 97-3-71, if evidence of sexual conduct of the  
126 complaining witness is offered to attack the credibility of said  
127 complaining witness, the following procedure shall be followed:

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

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

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

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



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

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

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

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

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

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



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

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

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

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





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

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

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



222           **SECTION 7.** Section 97-3-95, Mississippi Code of 1972, is  
223 brought forward as follows:

224           97-3-95. (1) A person is guilty of sexual battery if he or  
225 she engages in sexual penetration with:

226                   (a) Another person without his or her consent;

227                   (b) A mentally defective, mentally incapacitated or  
228 physically helpless person;

229                   (c) A child at least fourteen (14) but under sixteen  
230 (16) years of age, if the person is thirty-six (36) or more months  
231 older than the child; or

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

235           (2) A person is guilty of sexual battery if he or she  
236 engages in sexual penetration with a child under the age of  
237 eighteen (18) years if the person is in a position of trust or  
238 authority over the child including, without limitation, the  
239 child's teacher, counselor, physician, psychiatrist, psychologist,  
240 minister, priest, physical therapist, chiropractor, legal  
241 guardian, parent, stepparent, aunt, uncle, scout leader or coach.

242           **SECTION 8.** Section 97-3-97, Mississippi Code of 1972, is  
243 brought forward as follows:

244           97-3-97. For purposes of Sections 97-3-95 through 97-3-103  
245 the following words shall have the meaning ascribed herein unless  
246 the context otherwise requires:



247 (a) "Sexual penetration" includes cunnilingus,  
248 fellatio, buggery or pederasty, any penetration of the genital or  
249 anal openings of another person's body by any part of a person's  
250 body, and insertion of any object into the genital or anal  
251 openings of another person's body.

252 (b) A "mentally defective person" is one who suffers  
253 from a mental disease, defect or condition which renders that  
254 person temporarily or permanently incapable of knowing the nature  
255 and quality of his or her conduct.

256 (c) A "mentally incapacitated person" is one rendered  
257 incapable of knowing or controlling his or her conduct, or  
258 incapable of resisting an act due to the influence of any drug,  
259 narcotic, anesthetic, or other substance administered to that  
260 person without his or her consent.

261 (d) A "physically helpless person" is one who is  
262 unconscious or one who for any other reason is physically  
263 incapable of communicating an unwillingness to engage in an act.

264 **SECTION 9.** This act shall take effect and be in force from  
265 and after July 1, 2023.

