

By: Representative Shanks

To: Judiciary B

## HOUSE BILL NO. 1028

1       AN ACT TO AMEND SECTION 97-3-65, MISSISSIPPI CODE OF 1972, TO  
2 AUTHORIZE SURGICAL CASTRATION AS AN ADDITIONAL PENALTY FOR  
3 STATUTORY RAPE OF MINORS WHO ARE UNDER THE AGE OF THIRTEEN AT THE  
4 TIME OF THE OFFENSE; AND FOR RELATED PURPOSES.

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

6       **SECTION 1.** Section 97-3-65, Mississippi Code of 1972, is  
7 amended as follows:

8       97-3-65. (1) The crime of statutory rape is committed when:

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

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

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

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

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

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

19 (ii) Is twenty-four (24) or more months younger  
20 than the person.

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

30 (b) If twenty-one (21) years of age or older and  
31 convicted under subsection (1)(a) of this section, to imprisonment  
32 of not more than thirty (30) years in the State Penitentiary or a  
33 fine of not more than Ten Thousand Dollars (\$10,000.00), or both,  
34 for the first offense, and not more than forty (40) years in the  
35 State Penitentiary for each subsequent offense;

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

41 (d) If thirteen (13) years of age or older but under  
42 eighteen (18) years of age and convicted under subsection (1) (a)



43 or (1) (b) of this section, such imprisonment, fine or other  
44 sentence as the court, in its discretion, may determine.

45 (4) (a) Every person who shall have forcible sexual  
46 intercourse with any person, or who shall have sexual intercourse  
47 not constituting forcible sexual intercourse or statutory rape  
48 with any person without that person's consent by administering to  
49 such person any substance or liquid which shall produce such  
50 stupor or such imbecility of mind or weakness of body as to  
51 prevent effectual resistance, upon conviction, shall be imprisoned  
52 for life in the State Penitentiary if the jury by its verdict so  
53 prescribes; and in cases where the jury fails to fix the penalty  
54 at life imprisonment, the court shall fix the penalty at  
55 imprisonment in the State Penitentiary for any term as the court,  
56 in its discretion, may determine.

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

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

64 (6) (a) Upon conviction under this section, the court may  
65 issue a criminal sexual assault protection order prohibiting the  
66 offender from any contact with the victim, without regard to the  
67 relationship between the victim and offender. The court may



68 include in a criminal sexual assault protection order any relief  
69 available under Section 93-21-15. The term of a criminal sexual  
70 assault protection order shall be for a time period determined by  
71 the court, but all orders shall, at a minimum, remain in effect  
72 for a period of two (2) years after the expiration of any sentence  
73 of imprisonment and subsequent period of community supervision,  
74 conditional release, probation, or parole. Upon issuance of a  
75 criminal sexual assault protection order, the clerk of the issuing  
76 court shall enter the order in the Mississippi Protection Order  
77 Registry within twenty-four (24) hours of issuance, with no  
78 exceptions for weekends or holidays as provided in Section  
79 93-21-25, and a copy must be provided to both the victim and  
80 offender.

81 (b) Criminal sexual assault protection orders shall be  
82 issued on the standardized form developed by the Office of the  
83 Attorney General.

84 (c) It is a misdemeanor to knowingly violate any  
85 condition of a criminal sexual assault protection order. Upon  
86 conviction for a violation, the defendant shall be punished by a  
87 fine of not more than Five Hundred Dollars (\$500.00) or by  
88 imprisonment in the county jail for not more than six (6) months,  
89 or both. Any sentence imposed for the violation of a criminal  
90 sexual assault protection order shall run consecutively to any  
91 other sentences imposed on the offender. The court shall also be  
92 empowered to extend the criminal sexual assault protection order



93 for a period of one (1) year for each violation. The  
94 incarceration of a person at the time of the violation is not a  
95 bar to prosecution under this section. Nothing in this subsection  
96 shall be construed to prohibit the imposition of any other  
97 penalties or disciplinary action otherwise allowed by law or  
98 policy.

99 (7) For the purposes of this section, "sexual intercourse"  
100 shall mean a joining of the sexual organs of a male and female  
101 human being in which the penis of the male is inserted into the  
102 vagina of the female or the penetration of the sexual organs of a  
103 male or female human being in which the penis or an object is  
104 inserted into the genitals, anus or perineum of a male or female.

105 (8) (a) Notwithstanding any other provision of law to the  
106 contrary, upon conviction of any offense under this section,  
107 occurring on or after August 1, 2025, when the victim is under the  
108 age of thirteen at the time of the offense, in addition to any  
109 other sentence imposed for the offense, the court may sentence the  
110 offender to be surgically castrated. Such procedure shall be  
111 administered by the Mississippi Department of Corrections by a  
112 licensed physician. The department shall provide the services  
113 necessary to perform the castration.

114 (b) An order of the court sentencing a defendant to  
115 surgical castration under this section shall be contingent upon a  
116 determination by a court appointed medical expert that the  
117 defendant is an appropriate candidate for surgery. Such



118 determination shall be made not later than sixty (60) days from  
119 the imposition of sentence.

120                   (c) In all cases involving a defendant sentenced to a  
121 period of incarceration or confinement in an institution, the  
122 procedure shall be performed not later than one (1) week prior to  
123 the defendant's release from the institution.

124                   (d) If a defendant fails to appear as required by court  
125 order for purposes of the procedure, or refuses to allow the  
126 procedure, then the defendant shall be charged with a violation of  
127 the provisions of this section. Upon conviction, the offender  
128 shall be imprisoned, with or without hard labor, for not less than  
129 three (3) years nor more than five (5) years without benefit of  
130 probation, parole, or suspension of sentence.

131                   (e) The provisions of this subsection shall not be  
132 construed to require surgical castration when it is not medically  
133 appropriate.

134                   **SECTION 2.** This act shall take effect and be in force from  
135 and after July 1, 2025.

