

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.

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

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

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)



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

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

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

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

(6) (a) Upon conviction under this section, the court may issue a criminal sexual assault protection order prohibiting the offender from any contact with the victim, without regard to the 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



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

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

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

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



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

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

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

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

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

