

By: Representative McLean

To: Judiciary B

## HOUSE BILL NO. 1598

1 AN ACT TO AMEND SECTION 97-3-71, MISSISSIPPI CODE OF 1972, TO  
2 REMOVE FORCE AS AN ELEMENT OF RAPE; TO BRING FORWARD SECTIONS  
3 97-3-101, 97-3-103, 97-3-97 AND 97-3-65, MISSISSIPPI CODE OF 1972,  
4 WHICH PROVIDE FOR CRIMES OF SEXUAL ASSAULT, FOR PURPOSES OF  
5 AMENDMENT; AND FOR RELATED PURPOSES.

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

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

9 97-3-71. Every person who shall be convicted of an assault  
10 with intent of \* \* \* sexual penetration of any person shall be  
11 punished by imprisonment in the Penitentiary for life, or for such  
12 shorter time as may be fixed by the jury, or by the court upon the  
13 entry of a plea of guilty.

14 **SECTION 2.** Section 97-3-101, Mississippi Code of 1972, is  
15 brought forward as follows:

16 97-3-101. (1) Every person who shall be convicted of sexual  
17 battery under Section 97-3-95(1)(a), (b) or (2) shall be  
18 imprisoned in the State Penitentiary for a period of not more than  
19 thirty (30) years, and for a second or subsequent such offense



shall be imprisoned in the Penitentiary for not more than forty (40) years.

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

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

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

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

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

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

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



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

77 **SECTION 3.** Section 97-3-103, Mississippi Code of 1972, is  
78 brought forward as follows:

79 97-3-103. Sections 97-3-95 through 97-3-103 shall not be  
80 held to repeal, modify or amend any other criminal statute of this  
81 state.

82 **SECTION 4.** Section 97-3-97, Mississippi Code of 1972, is  
83 brought forward as follows:

84 97-3-97. For purposes of Sections 97-3-95 through 97-3-103  
85 the following words shall have the meaning ascribed herein unless  
86 the context otherwise requires:

87 (a) "Sexual penetration" includes cunnilingus,  
88 fellatio, buggery or pederasty, any penetration of the genital or  
89 anal openings of another person's body by any part of a person's  
90 body, and insertion of any object into the genital or anal  
91 openings of another person's body.

92 (b) A "mentally defective person" is one who suffers  
93 from a mental disease, defect or condition which renders that



94 person temporarily or permanently incapable of knowing the nature  
95 and quality of his or her conduct.

96 (c) A "mentally incapacitated person" is one rendered  
97 incapable of knowing or controlling his or her conduct, or  
98 incapable of resisting an act due to the influence of any drug,  
99 narcotic, anesthetic, or other substance administered to that  
100 person without his or her consent.

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

104 **SECTION 5.** Section 97-3-65, Mississippi Code of 1972, is  
105 brought forward as follows:

106 97-3-65. (1) The crime of statutory rape is committed when:

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

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

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

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

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

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

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



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

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

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

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

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

(d) If thirteen (13) years of age or older but under 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 include in a criminal sexual assault protection order any relief available under Section 93-21-15. The term of a criminal sexual



assault protection order shall be for a time period determined by the court, but all orders shall, at a minimum, remain in effect for a period of two (2) years after the expiration of any sentence of imprisonment and subsequent period of community supervision, conditional release, probation, or parole. Upon issuance of a criminal sexual assault protection order, the clerk of the issuing court shall enter the order in the Mississippi Protection Order Registry within twenty-four (24) hours of issuance, with no exceptions for weekends or holidays as provided in Section 93-21-25, and a copy must be provided to both the victim and offender.

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

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





193 bar to prosecution under this section. Nothing in this subsection  
194 shall be construed to prohibit the imposition of any other  
195 penalties or disciplinary action otherwise allowed by law or  
196 policy.

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

203 **SECTION 6.** This act shall take effect and be in force from  
204 and after July 1, 2025.

