

By: Representative Wells-Smith

To: Public Health and Human Services; Judiciary B

HOUSE BILL NO. 1475

1 AN ACT TO CODIFY SECTION 41-57-17, MISSISSIPPI CODE OF 1972,
 2 TO REQUIRE THE BUREAU OF VITAL STATISTICS OF THE STATE BOARD OF
 3 HEALTH TO NOTIFY DISTRICT ATTORNEYS WHEN IT APPEARS THAT A MINOR
 4 BELOW THE AGE OF CONSENT HAS CONCEIVED A CHILD AS THE RESULT OF
 5 STATUTORY RAPE OR SEXUAL BATTERY; TO PROVIDE A DUTY TO REPORT SUCH
 6 FACTS ON LICENSED EDUCATIONAL PERSONNEL; TO REQUIRE A WRITTEN
 7 RESPONSE FROM THE DISTRICT ATTORNEY IF HE DECLINES TO PROSECUTE
 8 THE CASE; TO AUTHORIZE THE ATTORNEY GENERAL TO PROSECUTE THE CASE
 9 IN SUCH INSTANCES; TO PROVIDE FOR IMMUNITY FOR MAKING SUCH
 10 REPORTS; TO PROVIDE CRIMINAL PENALTIES FOR FAILURE TO REPORT SUCH
 11 CASES TO LAW ENFORCEMENT OR THE DISTRICT ATTORNEY; AND FOR RELATED
 12 PURPOSES.

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

14 **SECTION 1.** The following section shall be codified as
 15 Section 41-57-17, Mississippi Code of 1972:

16 41-57-17. (1) Upon receiving any information or report
 17 indicating that a female under the age of fourteen (14) years has
 18 had sexual relations with or conceived or given birth to a child,
 19 alive or stillborn, conceived by relations with a male of any age
 20 who is two (2) or more years (twenty-four (24) or more months)
 21 older than the female, or that a female who is at least fourteen
 22 (14) years of age but under the age of sixteen (16) years has had
 23 sexual relations with or conceived or given birth to a child,
 24 alive or stillborn, conceived by relations with a male not her
 25 husband, who is at least seventeen (17) years old and is
 26 thirty-six (36) or more months older than the female, the Bureau
 27 of Vital Statistics of the State Board of Health, and each county
 28 health officer, county medical examiner, county medical examiner
 29 investigator, coroner and principal of a primary or secondary
 30 school shall immediately notify in writing the law enforcement
 31 agency in whose jurisdiction the sexual offense is believed to
 32 have occurred and shall notify the district attorney having

33 jurisdiction within forty-eight (48) hours with a written request
34 that such violation be prosecuted. Such conduct with a minor
35 below the age of capacity to make informed consent constitutes a
36 felony under either Section 97-3-65 prohibiting statutory rape or
37 Section 97-3-95 prohibiting sexual battery. The bureau shall have
38 the duty to provide the law enforcement agency the names of the
39 minor child, her parent(s) or other person responsible for her
40 care, and the alleged perpetrator, together with ages, places,
41 addresses, any witnesses and the nature of other evidence known at
42 the time of the report, and the name and address of the
43 institution or individual that submitted the information or report
44 to the bureau; this duty shall be of a continuing nature. The law
45 enforcement agency shall investigate the reported molestation and
46 shall file a preliminary report with the district attorney's
47 office within two (2) weeks of receiving the first notice.

48 (2) Any teacher, guidance counselor, school nurse, or other
49 school employee who has knowledge or reason to believe that such a
50 crime has occurred as described above, shall report such knowledge
51 or information to the principal of the school in which the female
52 is enrolled as a student.

53 (3) The duty to report is the same upon learning that a male
54 under the age of fourteen (14) years has been sexually molested by
55 a person who is two (2) or more years (twenty-four (24) or more
56 months) older than he is, or that a male who is at least fourteen
57 (14) years of age but under the age of sixteen (16) years has been
58 sexually molested by a person who is at least seventeen (17) years
59 old and is thirty-six (36) or more months older than he is.

60 (4) If a district attorney declines to prosecute a sexual
61 molestation offense referred to his office by (a) the bureau, (b)
62 the county health officer, (c) medical examiner, or (d) principal,
63 said prosecutor shall respond in writing to the bureau, county
64 health officer, medical examiner, coroner or principal, as the
65 case may be, within sixty (60) days following receipt of the

66 request to prosecute and shall state the reasons for declining to
67 prosecute. If the bureau, medical examiner, county health officer
68 or principal, after reviewing a district attorney's declination to
69 prosecute, disagrees with the decision of such district attorney,
70 the official may then refer the request for criminal prosecution
71 to the Attorney General. In conducting any such prosecution, the
72 Attorney General shall have all powers of a district attorney,
73 including the power to issue or cause to be issued subpoenas or
74 other process, and the right to enter the grand jury room while
75 the grand jury is in session and to perform services with
76 reference to the work of the grand jury.

77 (5) Anyone who withholds from a law enforcement agency or
78 prosecutor's office information of the kind required by this
79 section to be reported, shall be, upon being found guilty,
80 punished by a fine in a sum not less than One Thousand Dollars
81 (\$1,000.00) nor more than Five Thousand Dollars (\$5,000.00), or by
82 imprisonment in jail not to exceed one (1) year, or both.

83 (6) Any superintendent, principal, teacher or other school
84 personnel participating in the making of a required report
85 pursuant to this section shall be presumed to be acting in good
86 faith. Any person reporting in good faith shall be immune from
87 any civil liability that might otherwise be insured or imposed.

88 **SECTION 2.** This act shall take effect and be in force from
89 and after July 1, 2005.