

By: Senator(s) Nunnelee

To: Public Health and
Welfare; Judiciary, Division
A

SENATE BILL NO. 2734
(As Passed the Senate)

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; AND FOR RELATED PURPOSES.

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

12 **SECTION 1.** The following section shall be codified as

13 Section 41-57-17, Mississippi Code of 1972:

14 41-57-17. (1) Upon receiving any information or report
15 indicating that a female under the age of fourteen (14) years has
16 had sexual relations with or conceived or given birth to a child,
17 alive or stillborn, conceived by relations with a male of any age
18 who is two (2) or more years (twenty-four (24) or more months)
19 older than the female, or that a female who is at least fourteen
20 (14) years of age but under the age of sixteen (16) years has had
21 sexual relations with or conceived or given birth to a child,
22 alive or stillborn, conceived by relations with a male not her
23 husband, who is at least seventeen (17) years old and is
24 thirty-six (36) or more months older than the female, the Bureau
25 of Vital Statistics of the State Board of Health, and each county
26 health officer, county medical examiner, county medical examiner
27 investigator, coroner and principal of a primary or secondary
28 school shall immediately notify in writing the law enforcement
29 agency in whose jurisdiction the sexual offense is believed to
30 have occurred and shall notify the district attorney having
31 jurisdiction within forty-eight (48) hours with a written request

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

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

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

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

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

75 (5) Any superintendent, principal, teacher or other school
76 personnel participating in the making of a required report
77 pursuant to this section shall be presumed to be acting in good
78 faith. Any person reporting in good faith shall be immune from
79 any civil liability that might otherwise be insured or imposed.

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