

By: Representative Moore

To: Judiciary En Banc

HOUSE BILL NO. 495

1 AN ACT TO AMEND SECTION 97-3-65, MISSISSIPPI CODE OF 1972, TO  
2 PROVIDE FOR THE DEATH PENALTY IN STATUTORY RAPE CASES WHERE THE  
3 VICTIM IS UNDER THE AGE OF 13 YEARS AND THE DEFENDANT IS 18 YEARS  
4 OF AGE OR OLDER; 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;

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

21 (iii) Is not the person's spouse.

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

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

26 (a) If eighteen (18) years of age or older, but under  
27 twenty-one (21) years of age, and convicted under paragraph (1)(a)  
28 of this section, to imprisonment for not more than five (5) years

29 in the State Penitentiary or a fine of not more than Five Thousand  
30 Dollars (\$5,000.00), or both;

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

37 (c) If eighteen (18) years of age or older and  
38 convicted under paragraph (1)(b) of this section, to death;

39 (d) If thirteen (13) years of age or older but under  
40 eighteen (18) years of age and convicted under paragraph (1)(a) or  
41 (1)(b) of this section, such imprisonment, fine or other sentence  
42 as the court, in its discretion, may determine.

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

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

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

62           (6) For the purposes of this section, "sexual intercourse"  
63 shall mean a joining of the sexual organs of a male and female  
64 human being in which the penis of the male is inserted into the  
65 vagina of the female.

66           **SECTION 2.** This act shall take effect and be in force from  
67 and after July 1, 2006.