

By: Representative Moore

To: Judiciary En Banc

HOUSE BILL NO. 449

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 subsection

28 (1)(a) of this section, to imprisonment for not more than five (5)

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

31 (b) If twenty-one (21) years of age or older and
32 convicted under subsection (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 subsection (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 subsection (1)(a)
41 or (1)(b) of this section, such imprisonment, fine or other
42 sentence 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, 2007.