

By: Senator(s) Chaney

To: Judiciary, Division A

SENATE BILL NO. 2315

1 AN ACT TO AMEND SECTIONS 97-3-95 AND 97-5-23, MISSISSIPPI  
2 CODE OF 1972, TO EXPAND THE EXAMPLES OF PERSONS IN A POSITION OF  
3 TRUST OR AUTHORITY OVER A CHILD FOR WHOM THE CHILD'S CONSENT IS  
4 INEFFECTIVE AS A DEFENSE IN CHARGES OF CERTAIN SEXUAL ACTIVITY;  
5 AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 97-3-95, Mississippi Code of 1972, is  
8 amended as follows:

9 97-3-95. (1) A person is guilty of sexual battery if he or  
10 she engages in sexual penetration with:

11 (a) Another person without his or her consent;

12 (b) A mentally defective, mentally incapacitated or  
13 physically helpless person;

14 (c) A child at least fourteen (14) but under sixteen  
15 (16) years of age, if the person is thirty-six (36) or more months  
16 older than the child; or

17 (d) A child under the age of fourteen (14) years of  
18 age, if the person is twenty-four (24) or more months older than  
19 the child.

20 (2) A person is guilty of sexual battery if he or she  
21 engages in sexual penetration with a child under the age of  
22 eighteen (18) years if the person is in a position of trust or  
23 authority over the child, including, without limitation, the  
24 child's teacher, counselor, physician, psychiatrist, psychologist,  
25 minister, priest, physical therapist, chiropractor, legal  
26 guardian, parent, stepparent, aunt, uncle, scout leader, coach, or  
27 if the person is a law enforcement officer.

28           **SECTION 2.** Section 97-5-23, Mississippi Code of 1972, is  
29 amended as follows:

30           97-5-23. (1) Any person above the age of eighteen (18)  
31 years, who, for the purpose of gratifying his or her lust, or  
32 indulging his or her depraved licentious sexual desires, shall  
33 handle, touch or rub with hands or any part of his or her body or  
34 any member thereof, any child under the age of sixteen (16) years,  
35 with or without the child's consent, or a mentally defective,  
36 mentally incapacitated or physically helpless person as defined in  
37 Section 97-3-97, shall be guilty of a felony and, upon conviction  
38 thereof, shall be fined in a sum not less than One Thousand  
39 Dollars (\$1,000.00) nor more than Five Thousand Dollars  
40 (\$5,000.00), or be committed to the custody of the State  
41 Department of Corrections not less than two (2) years nor more  
42 than fifteen (15) years, or be punished by both such fine and  
43 imprisonment, at the discretion of the court.

44           (2) Any person above the age of eighteen (18) years, who,  
45 for the purpose of gratifying his or her lust, or indulging his or  
46 her depraved licentious sexual desires, shall handle, touch or rub  
47 with hands or any part of his or her body or any member thereof,  
48 any child younger than himself or herself and under the age of  
49 eighteen (18) years who is not such person's spouse, with or  
50 without the child's consent, when the person occupies a position  
51 of trust or authority over the child shall be guilty of a felony  
52 and, upon conviction thereof, shall be fined in a sum not less  
53 than One Thousand Dollars (\$1,000.00) nor more than Five Thousand  
54 Dollars (\$5,000.00), or be committed to the custody of the State  
55 Department of Corrections not less than two (2) years nor more  
56 than fifteen (15) years, or be punished by both such fine and  
57 imprisonment, at the discretion of the court. A person in a  
58 position of trust or authority over a child includes without  
59 limitation a child's teacher, counselor, physician, psychiatrist,  
60 psychologist, minister, priest, physical therapist, chiropractor,

61 legal guardian, parent, stepparent, aunt, uncle, scout leader,  
62 coach, or if the person is a law enforcement officer.

63 (3) Upon a second conviction for an offense under this  
64 section, the person so convicted shall be punished by commitment  
65 to the State Department of Corrections for a term not to exceed  
66 twenty (20) years, however, upon conviction and sentencing, the  
67 offender shall serve at least one-half (1/2) of the sentence so  
68 imposed.

69 **SECTION 3.** This act shall take effect and be in force from  
70 and after July 1, 2007.