

Senate Bill 500

Punishing Sextortion

Senator Connie M. Leyva (D-Chino)

SUMMARY

SB 500 amends California's extortion statute, Cal. Penal Code § 518, to clarify that extortion includes not only coercing the victim to hand over money or property, but also coercion involving sexual acts and sexually explicit images. This change does not replace other laws that might apply, including rape and sexual battery or laws specifically protecting minors.

SB 500 also amends California's computer crimes statute, Cal. Penal Code § 502, to clarify that accessing and, without permission using any data, including sexually explicit recordings or images of another, is a public offense.

BACKGROUND

Sexual extortion is not a new concept, but it is increasing in the digital age. Traditionally, sexual extortion was perpetrated by abusers who knew their victims but today anyone with a computer can perpetrate cyber-sexual extortion and exert power over strangers. Many perpetrators have abused multiple, or even hundreds, of victims. In sexual extortion's modern online form, perpetrators obtain private, often sexually explicit, images of their victims by hacking into their computers or smartphones or by pretending to be friends or peers on social networking sites. Perpetrators then use the threat of distribution of these images to demand sex or additional sexually explicit images. Presented with the threat that the images will be posted on the internet or sent to friends or family, the victims—often teens and young women—comply with the perpetrators' demands.

The United States Department of Justice reports that "sexortion is by far the most significantly growing threat to children" and that "sexortion cases tend to have more minor victims per offender than all other child sexual exploitation offenses." The National Center for Missing and Exploited Children has reported that 78% of reported sexual extortion victims were girls, with an average age of 15, and more than 20% of reported incidents involved multiple victims. These statistics are alarming, even more so because they are based solely on victim reporting.

Despite the lack of systematic tracking of sexual extortion cases at both the federal and state levels, there have been a number of high-profile examples involving Californians. In 2013, a Temecula college freshman was arrested for the

sexual extortion of young women and had hacked into as many as 150 online accounts. In 2010, a Santa Ana resident was arrested by the FBI. During the federal investigation, it was discovered that the Santa Ana resident possessed files associated with 129 computers and had victimized roughly 230 people. Of his victims, 44 were minors.

PROBLEM

While California has a revenge porn law that criminalizes the distribution of sexually explicit images without consent, in most sexual extortion cases there is no actual distribution, just the threat of distribution. Law enforcement and prosecutors are hampered by the absence of a clear offense specifically targeting sexual extortion offenses.

There is no consistency in the prosecution of sexual extortion cases. Because no specific California state statute expressly criminalizes sexual extortion, prosecutors proceed under a hodgepodge of statutes. Some bring charges under hacking statutes, others under stalking statutes and, when a minor is involved, proceed under California's child pornography statutes. Since California law does not currently allow for full or uniform prosecution of sexual extortion cases, perpetrators go unpunished or are charged with lesser crimes in many cases.

SOLUTION

SB 500 will criminalize sexual extortion and give prosecutors an important tool to combat these offenses and protect victims.

SUPPORT

California District Attorneys Association (Co-Sponsor)
Legal Momentum (Co-Sponsor)

STATUS

Introduced February 16, 2017

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