

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Committee Substitute

for

Senate Bill 240

BY SENATORS HAMILTON AND RUCKER

[Reported February 19, 2025, from the Committee on
the Judiciary]

1 A BILL to amend and reenact §61-2-13 of the Code of West Virginia, 1931, as amended; and to
2 amend the code by adding a new section, designated §61-8B-6, relating to extortion,
3 attempted extortion, sexual extortion, and aggravated sexual extortion; defining terms;
4 including a threat to any other thing of value for purposes qualifying extortion offense;
5 increasing criminal penalties for extortion or attempted extortion by threats; creating crime
6 of sexual extortion; establishing criminal penalties for sexual extortion; providing circuit
7 courts optional dispositional conditions when minor adjudicated for a sexual extortion
8 offense; creating crime of aggravated sexual extortion; establishing criminal penalties for
9 aggravated sexual extortion; and providing for jurisdiction for prosecution of sexual
10 extortion offenses in multiple counties.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2. CRIMES AGAINST THE PERSON.

§61-2-13. Extortion or attempted extortion by threats; penalties.

1 (a) A person who threatens, by direct threat, indirect threat, or innuendo, injury to the
2 character, person, ~~or~~ property, or any other thing of value of another person, or to the character,
3 person, ~~or~~ property, or any other thing of value of his or her spouse or child, or accuses him or
4 her or them of a criminal offense, and thereby obtains anything of value, or other consideration,
5 or compels the other person, against the other person's will, to perform any act, he or she is guilty
6 of a felony and, upon conviction thereof, shall be ~~confined~~ imprisoned in a state correctional facility
7 for not less than one year nor more than ~~five~~ 10 years. A person who makes such threat of injury
8 or accusation of an offense as set forth in this ~~section~~ subsection, but fails to obtain anything of
9 value or other consideration, is guilty of a ~~misdemeanor~~ felony and, upon conviction thereof, shall
10 be ~~confined~~ imprisoned in ~~jail~~ a state correctional facility for not less than ~~two~~ one year nor more
11 than ~~12 months~~ three years and fined not less than ~~\$50~~ \$1,000 nor more than ~~\$500~~ \$5,000, or
12 both fined and imprisoned.

(b) For purposes of this ~~article~~ section, "consideration" includes ~~sexual acts~~ sexual contact, sexual intercourse, and sexual intrusion as defined in §61-8B-1 of this code, and private images of intimate parts as defined in ~~§61-8-28a~~ §61-8B-6 of this code.

ARTICLE 8B. SEXUAL OFFENSES.

§61-8B-6. Sexual extortion and aggravated sexual extortion.

(a) As used in this section:

"Adult" means a person 18 years of age or older.

"Consideration" includes, but is not limited to, sexual contact, sexual intercourse, and sexual intrusion as those terms are defined in §61-8B-1, and private images as that term is defined in this subsection.

"Disclose" means to exhibit, transfer, publish, distribute, deliver, circulate, or disseminate by any means, including, but not limited to, electronic transmission.

"Image" means a photograph, video, videotape, live transmission, digital or computer-generated visual depiction, or any recording or product of any mechanical or electronic recording process or device that can preserve, for later viewing, an image.

"Minor" means any person under 18 years of age at the time of the alleged offense.

"Private image" means an image depicting sexually explicit nudity or sexual activity including, but not limited to, an image that includes a person's genitalia, pubic area, anus, or female post-pubescent breasts.

"Serious bodily injury" means bodily injury which creates a substantial risk of death, which causes serious or prolonged disfigurement, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily organ.

"Vulnerable adult" means any person over the age of 18, or an emancipated minor who, by reason of physical or mental condition, is unable to independently carry on the daily activities of life necessary to sustaining life and reasonable health and protection.

21 (b) A person commits the offense of sexual extortion if he or she knowingly and
22 intentionally discloses, causes to disclose, or threatens to disclose a private image of another
23 person in order to compel or attempt to compel the victim, or his or her spouse or child, to do any
24 act or refrain from doing any act against his or her will, with the intent to obtain additional private
25 images, anything of value, or other consideration.

26 (c) Any person who commits a violation of subsection (b) of this section is guilty of a felony
27 and, upon conviction thereof, shall be imprisoned in a state correctional facility:

28 (1) Not less than one year nor more than five years for a first offense;

29 (2) Not less than three years nor more than 10 years for a second offense; or

30 (3) Not less than 10 years nor more than 20 years for a third or subsequent offense.

31 (d) Notwithstanding the provisions of subsection (c) of this section, if a minor violates the
32 provisions of subsection (b) of this section, he or she shall be guilty of an act of delinquency and,
33 upon adjudication, disposition may be made by the circuit court pursuant to the provisions of §49-
34 4-701 through §49-4-725 of this code. The circuit court may order as a condition of any community
35 supervision period or disposition, behavioral health counseling from an appropriate agency or
36 provider.

37 (e) A person commits the offense of aggravated sexual extortion if he or she knowingly
38 and intentionally discloses, causes to be disclosed, or threatens to disclose a private image of
39 another person in order to compel or attempt to compel the victim, or his or her spouse or child,
40 to do any act or refrain from doing any act against his or her will, with the intent to obtain additional
41 private images, anything of value, or other consideration and either:

42 (1) The victim is a minor or a vulnerable adult and the person convicted of sexual extortion
43 is an adult; or

44 (2) The victim suffers serious bodily injury or death and the finder of fact finds beyond a
45 reasonable doubt that the sexual extortion of the victim was the proximate cause of the serious
46 bodily injury or death.

47 (f) Any person violating the provisions of subsection (e) of this section is guilty of a felony
48 and, upon conviction thereof, shall be imprisoned in a state correctional facility not less than 10
49 years nor more than 20 years.

50 (g) A prosecution pursuant to this section may be in the county in which the threat was
51 either made or received.