

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

Senate Bill 398

By Senators Hamilton, Chapman, Deeds, Maynard,
Plymale, Rucker, Stover, Taylor, Woelfel, Woodrum,
and Grady

[Introduced January 12, 2024; referred
to the Committee on the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
 2 designated §62-18-20, relating to creating the crimes of sexual extortion and aggravated
 3 sexual extortion; defining terms; establishing elements of the crimes of sexual extortion
 4 and aggravated sexual extortion; and establishing criminal penalties.

Be it enacted by the Legislature of West Virginia:

ARTICLE 18. SEXUAL OFFENSES.

§62-18-20. Sexual extortion and aggravated sexual extortion.

1 (a) As used in this section:

2 (1) "Adult" means a person 18 years of age or older.

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

4 (3) "Great bodily injury" means bodily injury which causes a substantial risk of death or
 5 which causes serious, permanent disfigurement, or protracted loss or impairment of the function of
 6 a bodily member or organ.

7 (4) "Private image" means an image depicting sexually explicit nudity or sexual activity.

8 (5) "Image" means a photograph, film, videotape, recording, live transmission, digital or
 9 computer-generated visual depiction, or any other reproduction made by electronic, mechanical,
 10 or other means.

11 (6) "Disclose" means exhibit, transfer, publicize, distribute, or reproduce.

12 (7) "Vulnerable adult" has the same meaning as in §9-6-1 of this code.

13 (b) A person commits the offense of sexual extortion if the actor intentionally and
 14 maliciously threatens to release, exhibit, or distribute a private image of another in order to compel
 15 or attempt to compel the victim to do any act or refrain from doing any act against his or her will,
 16 with the intent to obtain additional private images or anything else of value.

17 (c) Any person violating the provisions of subsection (b) is guilty of a felony and, upon
 18 conviction thereof, shall be imprisoned in a state correctional facility:

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

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

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

22 (d) Notwithstanding the provisions of subsection (c), if a minor violates the provisions of
23 subsection (b), he or she shall be guilty of a misdemeanor and, upon conviction thereof, shall be
24 confined in the county or regional jail for not less than one month nor more than 12 months, fined
25 the sum of \$500, or both. The court may order, as a condition of sentencing, behavioral health
26 counseling from an appropriate agency or provider.

27 (e) A person commits the offense of aggravated sexual extortion if the actor intentionally
28 and maliciously threatens to release, exhibit, or distribute a private image of another in order to
29 compel or attempt to compel the victim to do any act or refrain from doing any act against his or her
30 will, with the intent to obtain additional private images or anything else of value and either:

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

33 (2) The victim suffers great bodily injury or death and the finder of fact finds beyond a
34 reasonable doubt that the sexual extortion of the victim was the proximate cause of the great
35 bodily injury or death.

36 (f) Any person violating the provisions of subsection (e) is guilty of a felony and, upon
37 conviction thereof, shall be imprisoned in a state correctional facility not less than 10 nor more than
38 20 years.

NOTE: The purpose of this bill is to establish the crimes of sexual extortion and aggravated sexual extortion; defines terms; establishes elements of sexual extortion and aggravated sexual extortion; and establishes criminal penalties.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.