
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1402 Session of
2019

INTRODUCED BY NESBIT, McCLINTON, KAUFFMAN, HOWARD, SCHLOSSBERG,
DONATUCCI, CALTAGIRONE, READSHAW, BERNSTINE, BOBACK,
WILLIAMS, ISAACSON, KINSEY, FRANKEL, HILL-EVANS, IRVIN,
TOPPER, MILLARD, WARREN, MARSHALL, DeLUCA, TOOIL, MULLINS,
MURT, STEPHENS, DELOZIER, GILLEN AND DAWKINS, MAY 6, 2019

REFERRED TO COMMITTEE ON JUDICIARY, MAY 6, 2019

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, in sexual offenses, providing for the
3 offense of sexual extortion.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Title 18 of the Pennsylvania Consolidated
7 Statutes is amended by adding a section to read:

8 § 3132. Sexual extortion.

9 (a) Offense defined.--A person commits the offense of sexual
10 extortion if the person knowingly or intentionally coerces or
11 causes a complainant, through any means set forth in subsection

12 (b), to:

13 (1) engage in sexual conduct, the simulation of sexual
14 conduct or a state of nudity; or

15 (2) make, produce, disseminate, transmit or distribute
16 any image, video, recording or other material depicting the
17 complainant in a state of nudity or engaging in sexual

1 conduct or in the simulation of sexual conduct.

2 (b) Means of subjecting complainant to sexual extortion.--A
3 person subjects a complainant to sexual extortion through any of
4 the following means:

5 (1) Harming or threatening to harm the complainant or
6 the property of the complainant, the reputation of the
7 complainant or any other thing of value of the complainant.

8 (2) Making, producing, disseminating, transmitting or
9 distributing or threatening to make, produce, disseminate,
10 transmit or distribute any image, video, recording or other
11 material depicting the complainant in a state of nudity or
12 engaged in sexual conduct or in the simulation of sexual
13 conduct.

14 (3) Exposing or threatening to expose any fact or piece
15 of information that, if revealed, would tend to subject the
16 complainant to criminal proceedings, a civil action, hatred,
17 contempt, embarrassment or ridicule.

18 (4) Holding out, withholding or threatening to withhold
19 a service, employment, position or other thing of value.

20 (5) Threatening to cause or causing a loss, disadvantage
21 or injury, including a loss, disadvantage or injury to a
22 family or household member, as defined in section 2709.1
23 (relating to stalking).

24 (c) Demanding property.--A person commits the offense of
25 sexual extortion if the person knowingly or intentionally
26 solicits or demands the payment of money, property or services
27 or any other thing of value in exchange for removing from public
28 view or preventing the disclosure of any image, video, recording
29 or other material depicting the complainant in a state of nudity
30 or engaging in sexual conduct or the simulation of sexual

1 conduct.

2 (d) Grading.--

3 (1) Except as otherwise provided in paragraph (2), a
4 violation of this section shall constitute a misdemeanor of
5 the first degree.

6 (2) A violation of this section shall constitute a
7 felony of the third degree if:

8 (i) the complainant is under 18 years of age;

9 (ii) the complainant has an intellectual disability;

10 (iii) the actor holds a position of trust or
11 supervisory or disciplinary power over the complainant by
12 virtue of the actor's legal, professional or occupational
13 status;

14 (iv) the violation is part of a course of conduct of
15 sexual extortion by the actor; or

16 (v) the actor was previously convicted of a
17 violation of this section or of a similar offense in
18 another jurisdiction.

19 (e) Sentencing.--The Pennsylvania Commission on Sentencing,
20 in accordance with 42 Pa.C.S. § 2154 (relating to adoption of
21 guidelines for sentencing), shall provide for a sentence
22 enhancement within its guidelines for an offense under this
23 section when at the time of the offense the complainant is under
24 18 years of age or has an intellectual disability or the actor
25 holds a position of trust or supervisory or disciplinary power
26 over the complainant by virtue of the actor's legal,
27 professional or occupational status.

28 (f) Venue.--

29 (1) An offense committed under this section may be
30 deemed to have been committed at either the place at which

1 the communication was made or at the place where the
2 communication was received.

3 (2) Acts indicating a course of conduct which occur in
4 more than one jurisdiction may be used by any other
5 jurisdiction in which an act occurred as evidence of a
6 continuing pattern of conduct or a course of conduct.

7 (g) Territorial applicability.--A person may be convicted
8 under the provisions of this section if the complainant or the
9 offender is located within this Commonwealth.

10 (h) Concurrent jurisdiction to prosecute.--In addition to
11 the authority conferred upon the Attorney General by the act of
12 October 15, 1980 (P.L.950, No.164), known as the Commonwealth
13 Attorneys Act, the Attorney General shall have the authority to
14 investigate and to institute criminal proceedings for any
15 violation of this section or any series of violations involving
16 more than one county of this Commonwealth or another state. No
17 person charged with a violation of this section by the Attorney
18 General shall have standing to challenge the authority of the
19 Attorney General to investigate or prosecute the case, and, if a
20 challenge is made, the challenge shall be dismissed, and no
21 relief shall be made available in the courts of this
22 Commonwealth to the person making the challenge.

23 (i) Definitions.--As used in this section, the following
24 words and phrases shall have the meanings given to them in this
25 subsection unless the context clearly indicates otherwise:

26 "Course of conduct." A pattern of actions composed of more
27 than one act over a period of time, however short, evidencing a
28 continuity of conduct.

29 "Disseminate." To cause or make an electronic or actual
30 communication from one place or electronic communication device

1 to two or more other persons, places or electronic communication
2 devices.

3 "Distribute." To sell, lend, rent, lease, give, advertise,
4 publish or exhibit in a physical or electronic medium.

5 "Intellectual disability." Regardless of the age of the
6 individual, significantly subaverage general intellectual
7 functioning that is accompanied by significant limitations in
8 adaptive functioning in at least two of the following skill
9 areas: communication; self-care; home living; social and
10 interpersonal skills; use of community resources' self-
11 direction; functional academic skills; work; health; and safety.

12 "Nudity." As defined in section 5903(e) (relating to obscene
13 and other sexual materials and performances).

14 "Sexual conduct." Any of the following:

15 (1) Intentional touching by the complainant or actor,
16 either directly or through clothing, of the complainant's or
17 actor's intimate parts. Sexual contact of the actor with
18 himself must be in view of the complainant whom the actor
19 knows to be present.

20 (2) Sexual intercourse as defined in section 3101
21 (relating to definitions), masturbation, sadism, masochism,
22 bestiality, fellatio, cunnilingus or lewd exhibition of the
23 genitals.

24 "Simulation." Conduct engaged in that is depicted in a
25 manner that would cause a reasonable viewer to believe was
26 sexual conduct, even if sexual conduct did not occur.

27 "Transmit." To cause or make an electronic or actual
28 communication from one place or electronic communication device
29 to another person, place or electronic communication device.

30 Section 2. This act shall take effect in 60 days.