

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 337 Session of 2019

INTRODUCED BY SCHWANK, K. WARD, LANGERHOLC, PHILLIPS-HILL, MUTH, SANTARSIERO, FONTANA, BREWSTER, FARNESE, COSTA, MARTIN, HAYWOOD, HUGHES, MENSCH, ALLOWAY, WHITE, BROWNE, YUDICHAK, KILLION, BLAKE, TARTAGLIONE, SABATINA AND J. WARD, FEBRUARY 26, 2019

SENATOR BAKER, JUDICIARY, AS AMENDED, MARCH 27, 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 when the person intentionally or knowingly coerces or
11 causes another person AN INDIVIDUAL to engage in sexual conduct <--
12 or simulated sexual conduct or to produce, disseminate or
13 distribute an image, video or other recording of another person <--
14 THE INDIVIDUAL in a state of nudity or engaged in sexual conduct <--
15 or simulated sexual conduct by:

16 (1) harming or threatening to harm the person, property,
17 reputation or other thing of value of the other person <--

1 INDIVIDUAL; <--

2 (2) distributing, disseminating or threatening to
3 distribute or disseminate an image, video or other recording
4 of the ~~other person~~ INDIVIDUAL in a state of nudity or <--
5 engaged in sexual conduct or simulated sexual conduct;

6 (3) exposing or threatening to expose any fact of
7 information that if revealed would tend to subject the ~~other~~ <--
8 ~~person~~ INDIVIDUAL to criminal proceedings, hatred, contempt <--
9 or ridicule; or

10 (4) holding out, withholding or threatening to withhold
11 a service, employment, position or other thing of use or
12 value.

13 (b) Grading.--

14 (1) Except as otherwise provided, a violation of this
15 section shall constitute a misdemeanor of the first degree.

16 (2) A violation of this section shall constitute a
17 felony of the third degree when any of the following apply at
18 the time of the offense:

19 (i) the victim is less than 18 years of age;

20 (ii) the victim has an intellectual disability;

21 (iii) the person holds a position of trust or
22 supervisory or disciplinary power over the victim by
23 virtue of the person's legal, professional or
24 occupational status;

25 (iv) the violation is part of a course of conduct of
26 sexual extortion by the person; or

27 (v) the person was previously convicted of a
28 violation of this section or of a similar offense in
29 another jurisdiction.

30 (c) Sentencing.--The Pennsylvania Commission on Sentencing,

1 in accordance with 42 Pa.C.S. § 2154 (relating to adoption of
2 guidelines for sentencing), shall provide for a sentence
3 enhancement within its guidelines for an offense under this
4 section when at the time of the offense the victim is less than
5 18 years of age, has an intellectual disability or the person
6 holds a position of trust or supervisory or disciplinary power
7 over the victim by virtue of the person's legal, professional or
8 occupational status.

9 (d) Juvenile diversion.--

10 (1) Whenever a juvenile is charged with a violation of
11 this section, the judicial authority having jurisdiction of
12 the proceeding shall give first consideration to referring
13 the juvenile to a diversionary program under Pa.R.J.C.P. No.
14 312 (relating to Informal Adjustment) or No. 370 (relating to
15 Consent Decree). As part of the diversionary program, the
16 judicial authority may order the juvenile to participate in
17 an educational program that covers the legal and nonlegal
18 consequences of sexual extortion.

19 (2) If the person successfully completes the
20 diversionary program, the juvenile's records of the charge of
21 violating this section shall be expunged under section 9123
22 (relating to juvenile records).

23 (e) 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. Acts indicating a course of conduct that
29 occur in more than one jurisdiction may be used by any other
30 jurisdiction in which an act occurred as evidence of a

1 continuing pattern of conduct or a course of conduct.

2 "Disseminate." To cause or make an electronic or actual
3 communication from one place or electronic communication device
4 to two or more other persons, places or electronic communication
5 devices.

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

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

15 "Nudity." As defined in section 5903 (relating to obscene
16 and other sexual materials and performances).

17 "Sexual conduct." Any of the following:

18 (1) intentional touching by the victim or person, either
19 directly or through clothing, of the victim's or person's
20 intimate parts. Sexual contact of the actor with himself must
21 be in view of the victim whom the actor knows to be present;

22 (2) sexual intercourse, including genital-genital, oral-
23 genital, anal-genital or oral-anal, whether between persons
24 of the same or opposite sex; or

25 (3) sexual bestiality.

26 "Simulated sexual conduct." Conduct engaged in by performers
27 that is depicted in a manner that would cause a reasonable
28 viewer to believe that the performers engaged in actual sexually
29 explicit conduct, even if they did not in fact do so.

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