

1 **PROTECTION AGAINST EXTORTION AMENDMENTS**

2 2022 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Daniel W. Thatcher**

5 House Sponsor: Stephen L. Whyte

7 **LONG TITLE**

8 **General Description:**

9 This bill expands sexual extortion to include the extortion of items of value.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ expands sexual extortion to include extortion for money or other valuables.

13 **Money Appropriated in this Bill:**

14 None

15 **Other Special Clauses:**

16 This bill provides a coordination clause.

17 **Utah Code Sections Affected:**

18 AMENDS:

19 **76-5b-204**, as enacted by Laws of Utah 2017, Chapter 434

20 **Utah Code Sections Affected by Coordination Clause:**

21 **76-5b-204**, as enacted by Laws of Utah 2017, Chapter 434

23 *Be it enacted by the Legislature of the state of Utah:*

24 Section 1. Section **76-5b-204** is amended to read:

25 **76-5b-204. Sexual extortion -- Penalties.**

26 (1) As used in this section:

27 (a) "Adult" means an individual 18 years of age or older.

28 (b) "Child" means any individual under the age of 18.

29 (c) "Distribute" means the same as that term is defined in Section **76-5b-203**.

30 (d) "Intimate image" means the same as that term is defined in Section 76-5b-203.

31 (e) "Position of special trust" means the same as that term is defined in Section
32 76-5-401.1.

33 (f) "Sexually explicit conduct" means the same as that term is defined in Subsection
34 76-5b-203(1)(c).

35 (g) "Simulated sexually explicit conduct" means the same as that term is defined in
36 Section 76-5b-203.

37 (h) "Vulnerable adult" means the same as that term is defined in Section 76-5-111.

38 (2) An [~~individual who is 18 years old or older~~] actor commits the offense of sexual
39 extortion if the [~~individual~~] actor:

40 (a) with an intent to coerce a victim to engage in sexual contact, in sexually explicit
41 conduct, or in simulated sexually explicit conduct, or to produce, provide, or distribute an
42 image, video, or other recording of any individual naked or engaged in sexually explicit
43 conduct, communicates [~~in person or by electronic~~] by any means, a threat:

- 44 (i) to the victim's person, property, or reputation; or
- 45 (ii) to distribute an intimate image or video of the victim; [~~or~~]

46 (b) knowingly causes a victim to engage in sexual contact, in sexually explicit conduct,
47 or in simulated sexually explicit conduct, or to produce, provide, or distribute any image,
48 video, or other recording of any individual naked or engaged in sexually explicit conduct by
49 means of a threat:

- 50 (i) to the victim's person, property, or reputation; or
- 51 (ii) to distribute an intimate image or video of the victim; or

52 (c) with the intent to obtain a thing of value from a victim communicates, by any
53 means, a threat to distribute an intimate image or video of the victim.

54 (3) (a) If the actor is an adult:

55 [~~(3) (a)~~] (i) [~~Sexual~~] sexual extortion is a third degree felony.

56 [~~(b)~~] (ii) [~~Aggravated~~] aggravated sexual extortion of an adult is a second degree
57 felony.

58 ~~(c)~~ (iii) ~~[Aggravated]~~ aggravated sexual extortion of a child or a vulnerable adult is a
59 first degree felony.

60 (b) If the actor is a child:

61 (i) sexual extortion is a class A misdemeanor.

62 (ii) aggravated sexual extortion is a third degree felony.

63 (iii) aggravated sexual extortion of a victim under 14 years old is a second degree
64 felony.

65 (4) An ~~[individual]~~ actor commits aggravated sexual extortion when, in conjunction
66 with the offense described in Subsection (2), any of the following circumstances have been
67 charged and admitted or found true in the action for the offense:

68 (a) the victim is a child or vulnerable adult;

69 (b) the offense was committed by the use of a dangerous weapon, as defined in Section
70 76-1-601, or by violence, intimidation, menace, fraud, or threat of physical harm, or was
71 committed during the course of a kidnapping;

72 (c) the ~~[individual]~~ actor caused bodily injury or severe psychological injury to the
73 victim during or as a result of the offense;

74 (d) the ~~[individual]~~ actor was a stranger to the victim or became a friend of the victim
75 for the purpose of committing the offense;

76 (e) the ~~[individual]~~ actor, before sentencing for the offense, was previously convicted
77 of any sexual offense;

78 (f) the ~~[individual]~~ actor occupied a position of special trust in relation to the victim;

79 (g) the ~~[individual]~~ actor encouraged, aided, allowed, or benefitted from acts of
80 prostitution or sexual acts by the victim with any other individual, or sexual performance by the
81 victim before any other individual, human trafficking, or human smuggling; or

82 (h) the ~~[individual]~~ actor caused the penetration, however slight, of the genital or anal
83 opening of the victim by any part or parts of the human body, or by any other object.

84 (5) An ~~[individual]~~ actor commits a separate offense under this section:

85 (a) for each victim the individual subjects to the offense outlined in Subsection (2); and

86 (b) for each separate time the individual subjects a victim to the offense outlined
87 Subsection (2).

88 (6) This section does not preclude an [individual] actor from being charged and
89 convicted of a separate criminal act if the [individual] actor commits the separate criminal act
90 while the [individual] actor violates or attempts to violate this section.

91 (7) An interactive computer service, as defined in 47 U.S.C. Sec. 230, is not subject to
92 liability under this section related to content provided by a user of the interactive computer
93 service.

94 Section 2. **Coordinating S.B. 156 with S.B. 123 -- Technical amendment.**

95 If this S.B. 156 and S.B. 123, Criminal Code Recodification, both pass and become
96 law, it is the intent of the Legislature that the Office of Legislative Research and General
97 Counsel, when preparing the database for publication, merge Section [76-5b-204](#) to read as
98 follows:

99 **76-5b-204. Sexual extortion -- Penalties.**

100 (1) (a) As used in this section:

101 ~~[(a)]~~ (i) "Adult" means an individual 18 years of age or older.

102 ~~[(b)]~~ (ii) "Child" means any individual under the age of 18.

103 ~~[(c)]~~ (iii) "Distribute" means the same as that term is defined in Section [76-5b-203](#).

104 ~~[(d)]~~ (iv) "Intimate image" means the same as that term is defined in Section
105 [76-5b-203](#).

106 ~~[(e)]~~ (v) "Position of special trust" means the same as that term is defined in Section
107 ~~[76-5-401.1]~~ [76-5-404.1](#).

108 ~~[(f)]~~ (vi) "Sexually explicit conduct" means the same as that term is defined in
109 ~~[Subsection 76-5b-203(1)(c)]~~ Section [76-5b-203](#).

110 ~~[(g)]~~ (vii) "Simulated sexually explicit conduct" means the same as that term is defined
111 in Section [76-5b-203](#).

112 ~~[(h)]~~ (viii) "Vulnerable adult" means the same as that term is defined in Section
113 [76-5-111](#).

114 (b) Terms defined in Section 76-1-101.5 apply to this section.

115 (2) (a) An ~~[individual who is 18 years old or older]~~ actor commits the offense of sexual
116 extortion if the ~~[individual]~~ actor:

117 ~~[(a)]~~ (i) with an intent to coerce a victim to engage in sexual contact, in sexually
118 explicit conduct, or in simulated sexually explicit conduct, or to produce, provide, or distribute
119 an image, video, or other recording of any individual naked or engaged in sexually explicit
120 conduct, communicates ~~[in person or by electronic]~~ by any means a threat:

121 ~~[(i)]~~ (A) to the victim's person, property, or reputation; or

122 ~~[(ii)]~~ (B) to distribute an intimate image or video of the victim; ~~[or]~~

123 ~~[(b)]~~ (ii) knowingly causes a victim to engage in sexual contact, in sexually explicit
124 conduct, or in simulated sexually explicit conduct, or to produce, provide, or distribute any
125 image, video, or other recording of any individual naked or engaged in sexually explicit
126 conduct by means of a threat:

127 ~~[(i)]~~ (A) to the victim's person, property, or reputation; or

128 ~~[(ii)]~~ (B) to distribute an intimate image or video of the victim~~[-];~~ or

129 (iii) with intent to obtain a thing of value from a victim communicates, by any means, a
130 threat to distribute an intimate image or video of the victim.

131 (b) An actor commits aggravated sexual extortion when, in conjunction with the
132 offense described in Subsection (2)(a), any of the following circumstances have been charged
133 and admitted or found true in the action for the offense:

134 (i) the victim is a child or vulnerable adult;

135 (ii) the offense was committed by the use of a dangerous weapon or by violence,
136 intimidation, menace, fraud, or threat of physical harm, or was committed during the course of
137 a kidnapping;

138 (iii) the actor caused bodily injury or severe psychological injury to the victim during
139 or as a result of the offense;

140 (iv) the actor was a stranger to the victim or became a friend of the victim for the
141 purpose of committing the offense;

142 (v) the actor, before sentencing for the offense, was previously convicted of any sexual
143 offense;

144 (vi) the actor occupied a position of special trust in relation to the victim;

145 (vii) the actor encouraged, aided, allowed, or benefitted from acts of prostitution or
146 sexual acts by the victim with any other individual, or sexual performance by the victim before
147 any other individual, human trafficking, or human smuggling; or

148 (viii) the actor caused the penetration, however slight, of the genital or anal opening of
149 the victim by any part or parts of the human body, or by any other object.

150 (3) (a) [~~Sexual extortion~~] If the actor is an adult:

151 (i) A violation of Subsection (2)(a) is a third degree felony.

152 [~~(b)~~] (ii) [Aggravated sexual extortion of] A violation of Subsection (2)(b) in which the
153 victim is an adult is a second degree felony.

154 [~~(c)~~] (iii) [Aggravated sexual extortion of] A violation of Subsection (2)(b) in which
155 the victim is a child or a vulnerable adult is a first degree felony.

156 (b) If the actor is a child:

157 (i) A violation of Subsection (2)(a) is a class A misdemeanor.

158 (ii) A violation of Subsection (2)(b) is a third degree felony if there is more than a
159 two-year age gap between the actor and the victim.

160 [~~(4) An individual commits aggravated sexual extortion when, in conjunction with the~~
161 ~~offense described in Subsection (2), any of the following circumstances have been charged and~~
162 ~~admitted or found true in the action for the offense:]~~

163 [~~(a) the victim is a child or vulnerable adult;~~]

164 [~~(b) the offense was committed by the use of a dangerous weapon, as defined in~~
165 ~~Section 76-1-601, or by violence, intimidation, menace, fraud, or threat of physical harm, or~~
166 ~~was committed during the course of a kidnapping;]~~

167 [~~(c) the individual caused bodily injury or severe psychological injury to the victim~~
168 ~~during or as a result of the offense;]~~

169 [~~(d) the individual was a stranger to the victim or became a friend of the victim for the~~

170 ~~purpose of committing the offense;]~~

171 ~~[(e) the individual, before sentencing for the offense, was previously convicted of any~~
172 ~~sexual offense;]~~

173 ~~[(f) the individual occupied a position of special trust in relation to the victim;]~~

174 ~~[(g) the individual encouraged, aided, allowed, or benefitted from acts of prostitution~~
175 ~~or sexual acts by the victim with any other individual, or sexual performance by the victim~~
176 ~~before any other individual, human trafficking, or human smuggling; or]~~

177 ~~[(h) the individual caused the penetration, however slight, of the genital or anal~~
178 ~~opening of the victim by any part or parts of the human body, or by any other object.]~~

179 ~~[(5)] (c) An [individual] actor commits a separate offense under this section:~~

180 ~~[(a)] (i) for each victim the [individual] actor subjects to the offense outlined in~~
181 ~~Subsection (2)(a); and~~

182 ~~[(b)] (ii) for each separate time the [individual] actor subjects a victim to the offense~~
183 ~~outlined Subsection (2)(a).~~

184 ~~[(6)] (d) This section does not preclude an [individual] actor from being charged and~~
185 ~~convicted of a separate criminal act if the [individual] actor commits the separate criminal act~~
186 ~~while the individual violates or attempts to violate this section.~~

187 ~~[(7)] (4) An interactive computer service, as defined in 47 U.S.C. Sec. 230, is not~~
188 ~~subject to liability under this section related to content provided by a user of the interactive~~
189 ~~computer service."~~