WEST VIRGINIA CODE: §61-8B-6

§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.

(b) A person commits the offense of sexual extortion if he or she knowingly and intentionally discloses, causes to disclose, or threatens to disclose a private image of another person in order to compel or attempt to compel the victim, any member of the victim’s family or household, as defined in §48-27-204 of this code, residing in the household at the time of the offense, or his or her spouse or child, to do any act or refrain from doing any act against his or her will, with the intent to obtain additional private images, anything of value, or other consideration.

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

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

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

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

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

(e) A person commits the offense of aggravated sexual extortion if he or she knowingly and intentionally discloses, causes to be disclosed, or threatens to disclose a private image of another person in order to compel or attempt to compel the victim, any member of the victim's family or household, as defined in §48-27-204 of this code, residing in the household at the time of the offense, or his or her spouse or child, to do any act or refrain from doing any act against his or her will, with the intent to obtain additional private images, anything of value, or other consideration and either:

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

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

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

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

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