

Kansas House Bill 2001: Support

Testimony Before the Kansas Senate Judiciary Committee

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by

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Good afternoon Chairwoman Warren, Vice Chairman Wilborn, and members of the Committee. My name is Kate Owen, and I am an attorney with the law firm Orrick, Herrington & Sutcliffe LLP (“Orrick”) testifying on behalf of our pro bono client Legal Momentum, the Women’s Legal Defense and Education Fund. I am testifying in support of HB 2001, introduced by Representative Owens. Legal Momentum strongly supports efforts to criminalize this form of sexual assault in Kansas, and we thank you for your time in addressing this important matter.

Sexual extortion is not a new crime, but it has proliferated in the digital age as perpetrators increasingly use technology and the Internet to reach victims in Kansas. Instead of demanding money or property, the perpetrator demands sexual images or in-person sexual acts. While perpetrators use a variety of threats and tactics, in its modern, online form, this crime frequently originates when perpetrators obtain private, often sexually explicit, images of their victims by various means, such as by hacking into their computers or smartphones, or by pretending to be friends or peers on social media sites. Perpetrators then use the threat of distributing these images to demand sex or additional sexually explicit images. Presented with the threat that the images will be posted on the Internet or sent to friends and family, the victims—often teens and young women—feel they have no option but to comply with the perpetrators’ demands. Because these crimes frequently occur over the Internet, perpetrators can victimize multiple, or even hundreds, of victims. Every time a victim is forced to create and provide sexually explicit images against their will, or meet in person for sexual acts against their will, the victim is sexually assaulted. Victims of this form of sexual assault suffer harm like that of any other sex crime. They also suffer the additional harm of wondering, likely for the rest of their lives, when and how the images possessed by the perpetrator could surface.

In just two decades, the Internet and social media have radically changed the way we communicate with friends, family, and the world. Sadly, this innovation has also changed the way many sexual predators stalk and torment their victims, giving abusers near constant access to exert power and control over their victims. The FBI has recognized the danger and proliferation of sexual extortion. In an April 2016 U.S. Department of Justice Report to Congress, the Department recognized this growing form of online sexual exploitation, and cited findings from the 2016 National Strategy survey that “sextortion is by far the most significantly growing threat to children.” In 2019, the FBI launched a sextortion awareness campaign in schools. Since the National Center for Missing and Exploited Children Cyber Tipline began tracking in October 2013, they report “a dramatic increase in sextortion cases being reported.” As seen with other forms of gender-based violence, including domestic violence, the pandemic has created circumstances that have made victims more vulnerable to sexual extortion as most of us are even more heavily using and reliant upon technology.

These rising reports are alarming particularly because like other sexual assault crimes, sexual extortion is likely underreported. Also alarming, sextortion has been used by human traffickers as a way to coerce

and recruit victims into human trafficking and by certain individuals with power over housing as a means to coerce by threatening to evict or withhold housing from victims. In the housing context, we have heard reports of vulnerable tenants being threatened with eviction unless they comply and of prospective tenants with limited housing options being sexually extorted to secure a place to live.

Approximately five years ago, Legal Momentum, Orrick, and the Thomson Reuters Foundation worked together to publish a [report](#) titled “A Call to Action: Ending Sextortion in the Digital Age.” Our report examines how instances of sexual extortion have multiplied in the digital age, how children, teens, and women are the most vulnerable to this cyber-sexortion, and how gaps in federal and state laws have failed to keep pace with perpetrators’ use of technology to commit sexual extortion. Since the release of the report, we have worked to update laws in various states across the country in coordination with state attorneys general, lawmakers, and advocates.

Many perpetrators believed they were shielded from prosecution by laws that had not kept pace with the innovation of social media. And, in many respects, they were. Across the country, some offenders have escaped accountability entirely and others have been under prosecuted, such as being charged with only computer-based crimes like hacking. As in many states, sexual extortion does not fit squarely within Kansas’ existing sexual conduct and blackmail offenses. Kansas now has the opportunity to lead on this issue and modernize its laws to criminalize this form of sexual assault and combat this growing threat. In doing so, Kansas would join fifteen other jurisdictions that have criminalized sexual extortion conduct since 2017: Alabama, Arizona, Arkansas, California, Georgia, Maryland, Nebraska, New York, North Dakota, Pennsylvania, Rhode Island, Texas, Utah, Washington, D.C., and West Virginia. Additionally, a bill to criminalize sexual extortion is currently pending in New Jersey, and a bill to strengthen New York’s recent sexual extortion law is currently under consideration.

HB 2001 is critical to ensuring that the laws of Kansas keep pace with the manner in which perpetrators are abusing victims. This bill creates a new statute to make clear that it is a crime not only to extort money or property, but also to extort sexual conduct and sexual images. This simple legislative fix ensures that victims can come forward and that perpetrators of sexual extortion will be held accountable in a manner that matches the harm they have caused.

We urge you to support this important legislation. I am happy to answer any questions, and I look forward to continuing this important conversation.