

Senator Daniel W. Thatcher proposes the following substitute bill:

**PROTECTION AGAINST EXTORTION AMENDMENTS**

2022 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Daniel W. Thatcher**

House Sponsor: Stephen L. Whyte

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**LONG TITLE**

**General Description:**

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

**Highlighted Provisions:**

This bill:

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

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a coordination clause.

**Utah Code Sections Affected:**

AMENDS:

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

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

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

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

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

**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 ~~(e)~~ (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)]~~ Subsection [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.