

BILL ANALYSIS

Senate Research Center
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S.B. 2238
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Criminal Justice
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Current state law does not provide protections against sexual coercion. Sexual coercion, generally known to prosecutors as sextortion, is when an individual obtains a sensitive image of another and threatens to publicize the image, or threatens to commit another offense against the person, if their demands are not met.

Texas made great strides in the 84th Legislative Session passing laws criminalizing voyeurism and prohibiting the disclosure or promotion of intimate visual material through H.B. 207 and S.B. 1135. However, there is more work to be done in combating these types of heinous acts. While sextortion may sound similar to the promotion of intimate visual material, commonly referred to as revenge porn, it is markedly different. The fundamental crime in revenge porn lies in the distribution of the material, while in sextortion the crime lies in the use of a threat to obtain intimate visual material, or another benefit to the actor making the threat, which may be monetary or even an act involving sexual conduct.

S.B. 2238 amends Chapter 21, Penal Code, by creating the offense of sexual coercion. A violation occurs when a person intentionally coerces a victim to engage in sexual conduct or to produce intimate visual material, or provide a monetary benefit, by means of threatening to commit an act of violence or a sexual offense such as human trafficking, sexual abuse of a child, or other sexually related offenses if the victim does not comply.

Violators of this law would be subject to a state jail felony. If a person has been previously convicted of a sexual offense, then they are subject to a 3rd degree felony.

As proposed, S.B. 2238 amends current law relating to certain sexual offenses, creates a criminal offense, and increases a criminal penalty.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 21.16(g), Penal Code, as added by Chapter 852 (S.B. 1135), Acts of the 84th Legislature, Regular Session, 2015, to provide that an offense under this section is a state jail felony, rather than a Class A misdemeanor.

SECTION 2. Amends Chapter 21, Penal Code, by adding Section 21.18, as follows:

Sec. 21.18. SEXUAL COERCION. (a) Defines "intimate visual material" and "sexual conduct."

(b) Provides that a person commits an offense if the person intentionally threatens, including by coercion or extortion, to commit a certain offense to obtain, in return for not committing the threatened offense or in connection with the threatened offense: intimate visual material, an act involving sexual conduct causing arousal or gratification, or a monetary benefit or other benefit of value.

(c) Provides that a person commits an offense if the person intentionally threatens, including by coercion or extortion, to commit a certain offense to obtain, in return for not committing the threatened offense or in connection with the threatened offense, either intimate visual material or an act involving sexual conduct causing arousal or gratification.

(d) Provides that this section applies to a threat regardless of how that threat is communicated, including certain communications.

(e) Provides that an offense under this section is a state jail felony, except that the offense is a felony of the third degree if it is shown on the trial of the offense that the defendant has previously been convicted of an offense under this section.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2017.