

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 2238
By: Garcia
Criminal Justice
4/25/2017
Committee Report (Substituted)

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. (Original Author's / Sponsor's Statement of Intent)

C.S.S.B. 2238 amends current law relating to the creation of the offense of sexual coercion.

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 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:

(1) with the intent to coerce another person either to engage in sexual conduct or to produce, provide, or distribute intimate visual material, the actor communicates a threat against the other person's person, property, or reputation, or to distribute or cause distribution of intimate visual material of the other person; or

(2) the actor knowingly causes another person to engage in sexual conduct or to produce, provide, or distribute intimate visual material, by means of a threat against the other person's person, property, or reputation, or to distribute or cause distribution of intimate visual material of the other person.

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

(d) 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 or the victim was younger than 18 years of age at the time of the offense.

(c) Authorizes the actor, if conduct that constitutes an offense under this section also constitutes an offense under any other law, to be prosecuted under this section, the other law, or both.

SECTION 2. Effective date: September 1, 2017.