

Kansas House Bill 2546: Support

**Written Testimony
Before the Kansas Senate Judiciary Committee
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by
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Good afternoon 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 Legal Momentum, the Women’s Legal Defense and Education Fund. I am testifying in support of HB 2546. Legal Momentum strongly supports efforts to criminalize sexual extortion, and we thank you for your time in addressing this important matter.

Sexual extortion is not a new problem—but it is one that has proliferated in the digital age. Sexual extortion is a form of extortion, but instead of demanding money or property, the perpetrator demands sexual images or in-person sexual acts. In just two decades, the Internet and social media have radically changed the way we communicate with friends, family and the world. With just a few taps, we can now share pictures, videos, and stories with anyone, including complete strangers across the globe. 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.

In its modern, online form, perpetrators obtain private, often sexually explicit, images of their victims by various means such as hacking into their computers or smartphones, or by pretending to be friends or peers on social networking sites. Perpetrators then threaten to distribute these images unless the victim gives in to their demands for 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, even hundreds, of victims. Victims suffer harm like that of any other sex crime.

Additionally, 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 that sexual extortion is a 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.” 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.” These rising reports are alarming particularly because like other sexual assault crimes, sexual extortion is likely underreported. And also alarming, sextortion has been used by human traffickers as a way to coerce and recruit victims into human trafficking.

Approximately four 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-sextortion, and identifies the gaps in federal and state laws that 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 modernize its laws to fully criminalize sexual extortion and combat this growing online threat. In doing so, Kansas would join fifteen other jurisdictions that have expressly 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 2546 is critical to ensuring that the laws of Kansas keep pace with the manner in which perpetrators are abusing victims. This bill creates a clear new statute to recognize that it is a crime not only to extort money or property, but it is also a crime 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.