

MEMORANDUM

To: Leyton Gunn, Division of Budget
From: Scott M. Schultz, Executive Director
Date: February 7, 2020
Re: Prison Bed Impact Assessment, **HB 2546 - Creating the crime of sexual extortion and adding the crime to the Kansas offender registration act.**

IMPACT ASSESSMENT

- **Impact on Prison Admissions:** This bill **may** result in additional prison admissions, but it cannot be determined at this time.
- **Impact on Prison Beds:** This bill **may** result in additional prison admissions, but it cannot be determined at this time.
- **Impact on the Workload of the Commission:** This bill **may** impact the workload of the Commission, but cannot be determined at this time

SUMMARY OF THE BILL

New Section 1 creates a new crime of sexual extortion. It is defined as (a) sexual extortion is communication by any means a threat to injure the property or reputation of a person, or threat to distribute an image or video of a person that is a sexual nature or depicts such person in a state of nudity: (1) with the intent to coerce such person to: (A) Engage in sexual contact, sexual intercourse or conduct that is of a sexual nature; or (B) produce, provide or distribute an image, video or other recording of a person in a state of nudity or engaging in conduct that is of sexual nature; or (2) that causes such person to: (A) Engage in sexual contact, sexual intercourse or conduct that is of a sexual nature; or (B) produce, provide or distribute an image, video or other recording of a person in a state of nudity or engaging in conduct that is of sexual nature

The criminal penalties for sexual extortion is:

- (1) A severity level **7**, person felony, if the violation of subsection (a)(1); and
- (2) A severity level **4**, nonperson felony, if the violation of subsection (a)(2).

Section 2 adds the conviction of sexual extortion to the sex offender registration under K.S.A. 22-4902.

FINDINGS

- No data exists for the crime of sexual extortion.

- In FY 2019, there was **one** conviction for **blackmail**, under KSA 21-5428.
 - The one conviction was a severity level 7, nonperson felony.
 - That person was sentenced to probation.
- In FY 2019, **354** offenders were **required** to register by the court due to sex offender status.
- In FY 2019, **87** offenders were admitted to KDOC due to violation of sex offender registration.
 - 5 – severity level 3
 - 16 – severity level 5
 - 51 – severity level 6
 - 6 – severity level 7
 - 8 – severity level 8
 - 1 – severity level 9

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PROPORTIONALITY COMPARISON (Proposed Changes in Bold)

Statute Number Violated	Statutory Penalty Section	Registration Required "R"	Statute Description	Severity Level / Class	Attempt, Conspiracy & Solicitation			Person Nonperson/ Select
					A	C	S	
21-5426(a)(1)	(c)(1)		Human Trafficking; Intentionally, recruiting, harboring, transporting, providing or obtaining a person for labor or services, through use of force, fraud or coercion for purpose of subjecting person to involuntary servitude or forced labor	2	4	4	5	Person
21-6422(a)(2)	(b)(1)(B)	R	Commercial Sexual Exploitation of a Child; Knowingly own or maintain any property where sexual relations are offered or sold by a person under 18; offender has prior conviction under this section; victim not under 14 and offender not 18 or older	2	4	4	5	Person
21-5504(a)(3)	(c)(1)(B)	R	Criminal Sodomy; Committed with child 14 or more but less than 16	3	5	5	6	Person
21-5506(b)(1)	(c)(2)(A)	R	Aggravated Indecent Liberties with a Child; Sexual intercourse; child 14 or more but less than 16	3	5	5	6	Person
New Section 1.(a)(2)(A)	(b)(1)	R, if one party is <18	Sexual Extortion; causes engagement in sexual contact, intercourse, or sexual conduct	4	6	6	7	Person

New Section 1.(a)(2)(B)	(b)(2)	R, if one party is <18	Sexual Extortion; causes person to produce, provide, distribute image or video of person nude or engaging in conduct sexual in nature	4	6	6	7	Person
21-5428(a)(2)	(b)(2)		Blackmail; Intentionally gain/attempt to gain anything of value or compel another to act against such person's will, by threatening to: Disseminate videotape, photograph, film or image obtained in violation of K.S.A. 21-6101(a)(6)	4	6	6	7	Person
21-5506(b)(2)(A)	(c)(2)(B)	R	Aggravated Indecent Liberties with a Child; Nonconsensual lewd fondling/touching; child 14 or more but less than 16	4	6	6	7	Person
21-5506(b)(2)(B)	(c)(2)(B)	R	Aggravated Indecent Liberties with a Child; Causing child to engage in lewd fondling/touching without consent; child 14 or more but less than 16	4	6	6	7	Person
21-5508(b)(2)	(c)(2)	R	Aggravated Indecent Solicitation of a Child; Inviting to enter secluded place; child less than 14	5	7	7	8	Person
21-5510(a)(2)	(b)(1)(A)	R	Sexual Exploitation of Child; Possess visual medium of child less than 18 engaging in sexually explicit conduct	5	7	7	8	Person
21-5909(b)(1)	(c)(2)		Aggravated Intimidation of a Witness or Victim; Express or implied threat of force or violence against a witness, victim or other person or the property of any witness, victim or other person	6	8	8	9	Person
21-5911(b)(2)(A)	(c)(2)(C)		Aggravated Escape From Custody; By use of or threat of violence against any person while held on a charge or conviction of any crime	6	8	8	9	Person
New Section 1.(a)(1)(A)	(b)(1)	R, if one party is <18	Sexual Extortion; intends to coerce engagement in sexual contact, intercourse, sexual conduct	7	9	9	10	Person
New Section 1.(a)(1)(B)	(b)(1)	R, if one party is <18	Sexual Extortion; intends to coerce person to produce, provide, distribute image or video of person nude or engaging in conduct sexual in nature	7	9	9	10	Person
21-5604(b)(2)(B)	(c)(2)(B)	R	Aggravated Incest; Lewd fondling/touching with a relative 16 or 17	7	9	9	10	Person
21-5611(b)(1)(A)	(c)(2)(B)		Aggravated unlawful transmission of a visual depiction of a child; Knowingly transmitting a visual depiction of a child 12 or more years of age but less than 18 years of age in a state of nudity with the intent to harass, embarrass, intimidate, defame or otherwise inflict emotional, psychological or physical harm; 2nd or subsequent offense	7	9	9	10	Person
21-6101(a)(6)	(b)(2)(A)		Breach of Privacy; Knowingly and without authority; Installing or using a concealed camera of any type, to secretly photograph or record by electronic or other means, another, who is nude or in a state of undress, or	8	10	10	10	Person

			record under or through the clothing being worn by that other person, for the purpose of viewing the body of, or the undergarments worn by, that other person, without consent or knowledge of that other person, with intent to invade the privacy					
21-6401(b)	(c)(2)(B)		Promoting Obscenity to Minors; 2nd or subs. offense	8	10	10	10	Person