

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE

House Bill 204
Judiciary

(Delegate McDermott, *et al.*)

Crimes - Extortion of Sexually Explicit Images

This bill expands the State’s prohibition on extortion by verbal threat to include extortion of a sexually explicit or nude photograph, video footage, or other visual representation of the person who is the target of the extortion. The bill also expands the State’s prohibition on extortion by written threat to include extortion of labor, services, or a sexually explicit or nude photograph, video footage, or other visual representation of the person who is the target of the extortion.

Fiscal Summary

State Effect: Potential minimal increase in general fund expenditures due to the bill’s expanded application of existing incarceration penalties. Revenues are not affected.

Local Effect: Potential minimal increase in local revenues from fines imposed in circuit court cases. Expenditures are not affected.

Small Business Effect: None.

Analysis

Current Law: The State’s extortion by verbal threat statute prohibits a person from verbally threatening to commit the following acts with the intent to unlawfully extort money, property, labor, services, or anything of value from another:

- inflict emotional distress on a person;
- cause physical injury to a person;
- cause economic damage to a person;

- cause damage to the property of a person; or
- accuse any person of a crime or of anything that, if true, would bring the person into contempt or disrepute.

Violators are guilty of a felony and subject to imprisonment for up to 10 years and/or a maximum fine of \$10,000.

Under the State's extortion by written threat statute, a person with the intent to unlawfully extort any money, property, or anything of value from another, may not knowingly send or deliver a written threat to commit the following acts or make a writing containing a threat to commit the following acts with the intent to send or deliver and part with the possession of the writing:

- inflict emotional distress on a person;
- cause physical injury to a person;
- cause economic damage to a person;
- cause damage to the property of a person; or
- accuse any person of a crime or of anything that, if true, would bring the person into contempt or disrepute.

Violators are guilty of a felony and subject to imprisonment for up to 10 years and/or a maximum fine of \$10,000.

The extortion by written threat statute applies to any writing, whether or not the writing is signed, or if the writing is signed, whether or not it is signed with a fictitious name or any other mark or designation. The prohibition does not apply to a good faith reasonable notice of dishonor and warning of criminal prosecution under Title 8, Subtitle 1 of the Criminal Law Article (which pertains to bad checks) given by a holder of an instrument to the maker of the instrument.

Background: In September 2011, a California man was sentenced to six years imprisonment after pleading guilty in federal court to computer hacking and wiretapping. According to published reports, the defendant, Luis Mijangos, infected the computers of hundreds of victims with malicious software to gain access to their emails and watch his victims through their computer webcams without their knowledge. Mr. Mijangos targeted teenagers and young women and would search their computers for sexually explicit photographs or create explicit photographs of his own through the use of their webcams. He would then "sextort" his victims by threatening to publish explicit photographs of them on social media websites if they did not send him photographs or videos of sexual acts.

According to the Maryland State Sentencing Guidelines database, there were no convictions for the extortion offenses affected by this bill in fiscal 2012 or 2013.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland State Commission on Criminal Sentencing Policy, Department of State Police, Office of the Public Defender, State's Attorneys' Association, U.S. Department of Justice – Offices of the United States Attorneys, Federal Bureau of Investigation, Department of Legislative Services

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