



Fighting Revenge Porn and ‘Sextortion’

BY PAM GREENBERG

Nonconsensual distribution of intimate images and sexual extortion, or “sextortion,” are becoming common experiences for too many people.

The dissemination of sexually explicit images of others without their permission, sometimes called “revenge porn” or “nonconsensual pornography,” often involves situations where the individual consented to the photos or videos but expected they would be kept private. In other cases, images may have been taken surreptitiously, and then shared.

Sextortion takes place when individuals threaten to disclose explicit images unless the victim agrees to do something in exchange, such as engage in sexual activity or send more sexually explicit pictures, for example.

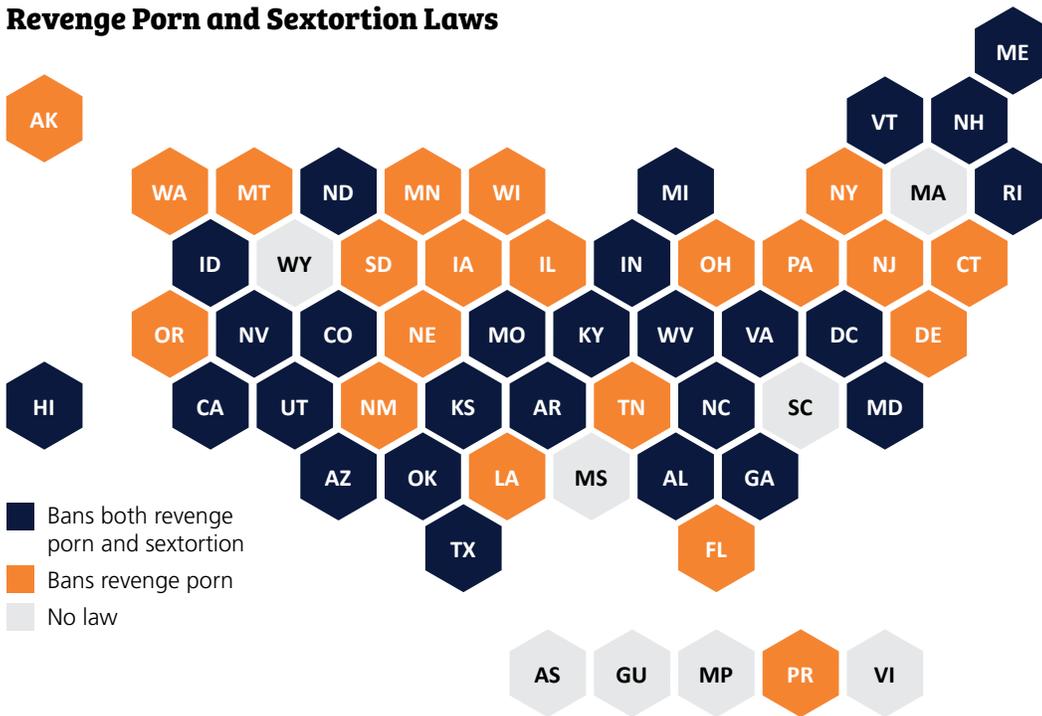
There are few studies about the prevalence of these incidents, but research is beginning to shed light. For example, in a recent [study](#) of 3,044 adults (54% women), 1 in 20 reported having experienced nonconsensual pornography.

Research by the [Brookings Institution](#) reviewed court dockets and news stories and found sextortion to be “surprisingly common” and “brutal.” A [U.S. Department of Justice report](#) called sextortion “by far the most significantly growing threat to children.” In an online survey of 1,631 victims of sextortion—ages 18 to 25—the [University of New Hampshire’s Crimes against Children Research Center](#) found that perpetrators carried out threats or otherwise harmed survey respondents in about 45% of cases.

Did You Know?

- The FBI has guidance for victims of revenge porn or sextortion.
- 1 in 3 victims of sextortion in a 2017 online survey said they had never told anyone, largely because of shame or embarrassment.
- Since 80% of revenge porn images are “selfies,” copyright law provides a way to force the takedown of intimate images.

Revenge Porn and Sextortion Laws



Source: NCSL, 2019

State Action

Most state legislatures began enacting legislation prohibiting the nonconsensual dissemination of intimate images in 2013. Forty-six states, Washington, D.C., and Puerto Rico now have laws. The laws vary considerably from state to state (e.g., some provide for misdemeanor offenses, some felonies; some are part of cyber harassment or voyeurism codes; others are standalone provisions).

In addition, several state laws have been [challenged](#) as violating First Amendment protections of free speech. An early version of Arizona’s revenge porn law was struck down (the law was later revised), and other court cases are currently pending, including in Illinois and Texas. Legislation in more than a dozen states this year was aimed at amending existing laws by refining language to correct potentially unconstitutional provisions or closing loopholes. For example, Oregon’s [HB 2393](#) expands the state’s unlawful dissemination law to include imagery distributed via means other than an internet website, such as apps and text messages.

Another growing trend is legislation to provide for civil remedies. About a dozen state laws currently allow for a private right of action against those who disclose intimate images without consent. In July 2018, the Uniform Law Commission approved the [Uniform Civil Remedies for Unauthorized Dis-](#)

[closure of Intimate Images Act](#). It aims to provide a “uniform, clear, fair and constitutionally sound definition of this harmful conduct and remedies for the harm it causes.” Colorado and Nebraska adopted the act in legislation this year.

More recently, state legislatures have focused on sexual extortion. At least 26 states and D.C. now have laws addressing sextortion, including the three states—Georgia, North Dakota, Nebraska—and D.C. that passed new laws this year. Although some sextortion cases potentially can be prosecuted under general extortion, harassment or child pornography laws, courts have dismissed strong cases because criminal statutes do not specifically address sextortion.

Federal Action

Federal law does not directly address nonconsensual pornography or sextortion currently. In May, however, Representative Jackie Speier (D-Calif.) and Representative John Katko (R-N.Y.) introduced [HR 2896](#), the Stopping Harmful Image Exploitation and Limiting Distribution Act of 2019 (the “SHIELD Act”). The legislation seeks to address both dissemination of images and sextortion. Companion legislation reportedly will be introduced in the Senate by Senator Kamala Harris (D-Calif.).

Additional Resources

- [“A Call to Action: Ending Sextortion in the Digital Age,” Thomson Reuters Foundation](#)
- [Sextortion: Findings from a Survey of 1,631 Victims, Crimes Against Children Research Center, University of New Hampshire](#)

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