

The Newest Net Threat

Sextortion” is the latest troubling trend involving sexually explicit photos or videos and the internet. After acquiring explicit images, sometimes by stealing them through computer hacking, sextortionists use them to blackmail victims into sexual activity or into sending more sexually explicit pictures.

Lawmakers first tackled sexting—when minors send nude photos of themselves to each other, not knowing they could face child pornography charges. About half the states have passed laws that reduce penalties or provide alternative punishments for minors charged with sexting.

Then came nonconsensual pornography, or “revenge porn,” when people send or post sexually explicit photographs or videos of former friends without their permission even if they were taken with their consent. State legislators in 35 states and D.C. have passed bills on revenge porn.

Now, the growing number of sexual extortion crimes are catching lawmakers’ attention. Research into criminal cases by the Brookings Institution 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.”

Sextortionists can easily victimize hundreds of people using nothing more than a computer. In one high-profile case, Michael Chansler, a young Florida man, persuaded hundreds of teenage girls in 26 states, Canada and the United Kingdom to send him sexually explicit video of themselves. He then threatened to send the images to the girls’ parents or post them online unless they agreed to send additional images. Chansler was convicted under child pornography laws and sentenced to 105 years in prison.

Although these crimes could potentially be prosecuted under a number of current child pornography, cyberstalking or extortion laws, a half dozen states are targeting sextortion expressly. In Delaware, for example, a person who induces another to engage

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in a sexual act by threatening to expose a secret, to cause property damage or physical injury, or who intends to “subject the person to hatred, contempt or ridicule; or other acts that are calculated to harm another person’s health, safety, business, calling, career, financial condition, reputation or personal relationships,” can be charged with a felony. The law also imposes more severe charges for the sexual extortion of a child.

Arkansas and Utah enacted similar laws in March, adding provisions that apply if someone coerces a victim to provide or distribute a nude image or a video of a person engaged in sexually explicit conduct. Utah also imposes a harsher felony charge when the victim is a child or a vulnerable adult, and the law applies only to adults who commit sexual extortion, not minors.

Representative Steve Eliason (R), sponsor of the Utah bill, told his colleagues on the House floor how his son’s cellphone was stolen and used to send text messages demanding sexual images. To get the phone back, the thief made additional demands of Eliason’s son. “It was deeply troubling, both for those who were receiving those and for my son who didn’t know it was happening.”

Lawmakers in at least five other states have introduced sextortion legislation, as of April 1. The bills in Alabama, California, Rhode Island and Texas are pending; Mississippi’s has died.

—Pam Greenberg

Changes to Education Law

U.S. Education Secretary Betsy DeVos issued a revised template in March for state education plans under the Every Student Succeeds Act (ESSA) to ensure greater flexibility for state and local education leaders. There are three new requirements in the revised template, but the main goal of the revision was to require state consolidated plans to include only those descriptions and information that the secretary has determined are “absolutely necessary,” as indicated by ESSA.

“The updated state template will ensure states are able to better serve students with the freedom and flexibility they deserve, and which Congress requires,” DeVos says. “My philosophy is simple: I trust parents, I trust teachers, and I trust local school leaders to do what’s right for the children they serve. ESSA was passed with broad bipartisan support to move power away from Washington, D.C., and into the hands of those who are closest to serving our nation’s students.”

The law still requires input from state

legislatures when creating plans, but the new template drops the requirement that each state education agency provide evidence that it consulted with a wide range of stakeholders, including state lawmakers. Because evidence of consultation is not required, it might be advisable for state legislators to take the initiative when it comes to their statutory right to be consulted. State agencies that missed the April 3, 2017, deadline have until Sept. 18, 2017, to submit plans.

—Lucia Bragg

Banning Bans, Not Bags

Plastic bags clog up local waterways, litter roadways and get swallowed up by unsuspecting fish. They can gum up conveyor belts, slowing down productivity at recycling centers. And they can take ages to degrade—if they ever do. Paper bags have their problems, as well. They require millions of trees to make and consume more than four times as much energy to manufacture than do plastic ones.

Businesses, consumers and almost all of us depend on these bags to some extent. We love their convenience, light weight and low cost. More and more lawmakers have come to believe they are also good for business, that banning bags—as several large cities and two states have done—is not the solution. Instead of banning bags, some states are now banning bans.

Michigan lawmakers passed a new law at the end of last year, for example, that prohibits local governments from banning, restricting, regulating or imposing a tax or fee on the use or sale of plastic bags, cups, bottles and other containers, including paper bags.

“We want to continue to have a consistent standard across the state to help our business community that has made significant investments here already, as well as attract new business to Michigan,” says Senator Jim Stamas (R), sponsor of the bill.

Business groups agree that following a patchwork quilt of regulations across a state can be time-consuming and costly. Opponents of these local bans are concerned not only with the environmental damage the bags inflict, but also with the overreach these bills impose on local control.

Florida lawmakers passed the first ban on cities’ bans in 2008. Their colleagues in Arizona and Missouri followed in 2015; Idaho, Indiana, Michigan and Wisconsin passed similar laws in 2016. Legislation is pending this year in Minnesota, South Carolina and Texas. And North Carolina lawmakers are considering repealing the current ban on plastic bags in coastal communities passed in 2009.

Not all states are trending toward banning bans, however. Ten have had bills



introduced this year to limit the use of bags, although none have yet passed.

Bans on bags are not that old. The California Legislature was the first, in 2014, to pass a statewide ban, which went into effect after voter approval last fall. It applies to big retail stores using plastic bags. In Hawaii, a de facto statewide ban resulted in 2015 after all the most populous counties passed bans on bags made of nonbiodegradable plastic or less than 40 percent of recycled paper.

Whether it’s banning bags or banning bans, this issue is sure to cling to legislative agendas for some time.

—Jennifer Schultz

A Taxing Presidential Issue

It wasn’t unusual to think that legislatures would address some of the many election controversies that arose in 2016. From primaries and caucuses to cybersecurity and voter fraud, there is no shortage of election issues for lawmakers to consider this year. But one issue that perhaps wasn’t expected has become a strong legislative trend in 2017.

As of April 1, legislators in 25 states had introduced bills to require prospective presidential candidates to disclose recent tax returns as a condition of being placed on the ballot. Across the states, the number of returns required ranges from as little as the most recent year to up to 10 years’ worth of returns. Many require that the returns be redacted and posted publicly for inspection.

Nearly every bill has been introduced by Democrats, in reaction to President Donald Trump’s refusal to release his tax returns as per the custom of previous presidential candidates.

Some of the bills address concerns over the constitutionality of such a requirement by focusing on presidential electors, prohibiting them from voting for a candidate who has not provided the required tax returns.

So far only two bills have moved far in the legislative process. The New Jersey legislation passed both chambers and now awaits action by Governor Chris Christie (R). In Hawaii, legislation passed the all-Democratic Senate and is now before the House.

Whether any of these bills become law remains to be seen. What is clear is that political theater is alive and well, just as it was in 2011 and 2012, when Republicans in at least eight states introduced bills requiring presidential candidates to provide copies of their long-form birth certificate as a condition of getting on the ballot.

—Dan Diorio

