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**SENATE BILL 5495**

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**State of Washington**

**66th Legislature**

**2019 Regular Session**

**By** Senators Zeiger, Nguyen, Padden, and Frockt

Read first time 01/23/19. Referred to Committee on Law & Justice.

1 AN ACT Relating to social media extortion and relief; reenacting  
2 and amending RCW 9A.04.110; adding a new section to chapter 9A.56  
3 RCW; creating a new section; and prescribing penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 9A.56  
6 RCW to read as follows:

7 (1) A person is guilty of social media extortion if he or she  
8 commits extortion by means of a threat as defined in RCW  
9 9A.04.110(28)(k).

10 (2) Social media extortion is a class C felony punishable  
11 according to chapter 9A.20 RCW.

12 **Sec. 2.** RCW 9A.04.110 and 2011 c 336 s 350 and 2011 c 166 s 2  
13 are each reenacted and amended to read as follows:

14 In this title unless a different meaning plainly is required:

15 (1) "Acted" includes, where relevant, omitted to act;

16 (2) "Actor" includes, where relevant, a person failing to act;

17 (3) "Benefit" is any gain or advantage to the beneficiary,  
18 including any gain or advantage to a third person pursuant to the  
19 desire or consent of the beneficiary;

1 (4) (a) "Bodily injury," "physical injury," or "bodily harm" means  
2 physical pain or injury, illness, or an impairment of physical  
3 condition;

4 (b) "Substantial bodily harm" means bodily injury which involves  
5 a temporary but substantial disfigurement, or which causes a  
6 temporary but substantial loss or impairment of the function of any  
7 bodily part or organ, or which causes a fracture of any bodily part;

8 (c) "Great bodily harm" means bodily injury which creates a  
9 probability of death, or which causes significant serious permanent  
10 disfigurement, or which causes a significant permanent loss or  
11 impairment of the function of any bodily part or organ;

12 (5) "Building," in addition to its ordinary meaning, includes any  
13 dwelling, fenced area, vehicle, railway car, cargo container, or any  
14 other structure used for lodging of persons or for carrying on  
15 business therein, or for the use, sale, or deposit of goods; each  
16 unit of a building consisting of two or more units separately secured  
17 or occupied is a separate building;

18 (6) "Deadly weapon" means any explosive or loaded or unloaded  
19 firearm, and shall include any other weapon, device, instrument,  
20 article, or substance, including a "vehicle" as defined in this  
21 section, which, under the circumstances in which it is used,  
22 attempted to be used, or threatened to be used, is readily capable of  
23 causing death or substantial bodily harm;

24 (7) "Dwelling" means any building or structure, though movable or  
25 temporary, or a portion thereof, which is used or ordinarily used by  
26 a person for lodging;

27 (8) "Government" includes any branch, subdivision, or agency of  
28 the government of this state and any county, city, district, or other  
29 local governmental unit;

30 (9) "Governmental function" includes any activity which a public  
31 servant is legally authorized or permitted to undertake on behalf of  
32 a government;

33 (10) "Indicted" and "indictment" include "informed against" and  
34 "information", and "informed against" and "information" include  
35 "indicted" and "indictment";

36 (11) "Judge" includes every judicial officer authorized alone or  
37 with others, to hold or preside over a court;

38 (12) "Malice" and "maliciously" shall import an evil intent,  
39 wish, or design to vex, annoy, or injure another person. Malice may  
40 be inferred from an act done in willful disregard of the rights of

1 another, or an act wrongfully done without just cause or excuse, or  
2 an act or omission of duty betraying a willful disregard of social  
3 duty;

4 (13) "Officer" and "public officer" means a person holding office  
5 under a city, county, or state government, or the federal government  
6 who performs a public function and in so doing is vested with the  
7 exercise of some sovereign power of government, and includes all  
8 assistants, deputies, clerks, and employees of any public officer and  
9 all persons lawfully exercising or assuming to exercise any of the  
10 powers or functions of a public officer;

11 (14) "Omission" means a failure to act;

12 (15) "Peace officer" means a duly appointed city, county, or  
13 state law enforcement officer;

14 (16) "Pecuniary benefit" means any gain or advantage in the form  
15 of money, property, commercial interest, or anything else the primary  
16 significance of which is economic gain;

17 (17) "Person," "he or she," and "actor" include any natural  
18 person and, where relevant, a corporation, joint stock association,  
19 or an unincorporated association;

20 (18) "Place of work" includes but is not limited to all the lands  
21 and other real property of a farm or ranch in the case of an actor  
22 who owns, operates, or is employed to work on such a farm or ranch;

23 (19) "Prison" means any place designated by law for the keeping  
24 of persons held in custody under process of law, or under lawful  
25 arrest, including but not limited to any state correctional  
26 institution or any county or city jail;

27 (20) "Prisoner" includes any person held in custody under process  
28 of law, or under lawful arrest;

29 (21) "Projectile stun gun" means an electronic device that  
30 projects wired probes attached to the device that emit an electrical  
31 charge and that is designed and primarily employed to incapacitate a  
32 person or animal;

33 (22) "Property" means anything of value, whether tangible or  
34 intangible, real or personal;

35 (23) "Public servant" means any person other than a witness who  
36 presently occupies the position of or has been elected, appointed, or  
37 designated to become any officer or employee of government, including  
38 a legislator, judge, judicial officer, juror, and any person  
39 participating as an advisor, consultant, or otherwise in performing a  
40 governmental function;

1 (24) "Signature" includes any memorandum, mark, or sign made with  
2 intent to authenticate any instrument or writing, or the subscription  
3 of any person thereto;

4 (25) "Statute" means the Constitution or an act of the  
5 legislature or initiative or referendum of this state;

6 (26) "Strangulation" means to compress a person's neck, thereby  
7 obstructing the person's blood flow or ability to breathe, or doing  
8 so with the intent to obstruct the person's blood flow or ability to  
9 breathe;

10 (27) "Suffocation" means to block or impair a person's intake of  
11 air at the nose and mouth, whether by smothering or other means, with  
12 the intent to obstruct the person's ability to breathe;

13 (28) "Threat" means to communicate, directly or indirectly the  
14 intent:

15 (a) To cause bodily injury in the future to the person threatened  
16 or to any other person; or

17 (b) To cause physical damage to the property of a person other  
18 than the actor; or

19 (c) To subject the person threatened or any other person to  
20 physical confinement or restraint; or

21 (d) To accuse any person of a crime or cause criminal charges to  
22 be instituted against any person; or

23 (e) To expose a secret or publicize an asserted fact, whether  
24 true or false, tending to subject any person to hatred, contempt, or  
25 ridicule; or

26 (f) To reveal any information sought to be concealed by the  
27 person threatened; or

28 (g) To testify or provide information or withhold testimony or  
29 information with respect to another's legal claim or defense; or

30 (h) To take wrongful action as an official against anyone or  
31 anything, or wrongfully withhold official action, or cause such  
32 action or withholding; or

33 (i) To bring about or continue a strike, boycott, or other  
34 similar collective action to obtain property which is not demanded or  
35 received for the benefit of the group which the actor purports to  
36 represent; or

37 (j) To do any other act which is intended to harm substantially  
38 the person threatened or another with respect to his or her health,  
39 safety, business, financial condition, or personal relationships; or

1       (k) To obtain property from any person in return for removing  
2 negative social media communications about that person or person's  
3 health, safety, business, financial condition, or personal  
4 relationships, or to post future negative social media communications  
5 about a person or the person's health, safety, business, financial  
6 condition, or personal relationships if that person does not provide  
7 the property demanded. There is a rebuttable presumption that the  
8 negative social media communications are untrue where a person  
9 demands property in return for removing the communications or in  
10 return for not posting future negative social media communications;

11       (29) "Vehicle" means a "motor vehicle" as defined in the vehicle  
12 and traffic laws, any aircraft, or any vessel equipped for propulsion  
13 by mechanical means or by sail;

14       (30) Words in the present tense shall include the future tense;  
15 and in the masculine shall include the feminine and neuter genders;  
16 and in the singular shall include the plural; and in the plural shall  
17 include the singular.

18       NEW SECTION. Sec. 3. (1) A social media provider must remove  
19 negative social media communications specifically identified within a  
20 copy of a police report filed with law enforcement within twenty-four  
21 hours after being presented a copy of a police report that alleges  
22 social media extortion, and a copy of the threat as defined under RCW  
23 9A.04.110(28)(k).

24       (2) For purposes of this section, "social media provider" means  
25 web sites and applications that enable users to create and share  
26 content, and find and connect with other users of common interests.

27       (3) A person may seek relief in court to require a social media  
28 provider to remove negative social media communications as required  
29 under subsection (1) of this section. Venue for such actions is the  
30 county where the petitioner resides.

31       (4) Nothing in this section shall be construed to impose  
32 liability on an interactive computer service, as defined in 47 U.S.C.  
33 Sec. 230(f)(2) as it exists on the effective date of this section,  
34 for content provided by another person.

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