



## **SB 366 Threatening to Communicate Derogatory Information**

### **Testimony of Senator Steve Nass**

**Senate Committee on Judiciary & Public Safety**

**January 7, 2016 • 330 Southwest, State Capitol**

Thank you Chairman Wanggaard for holding a public hearing and allowing me to provide testimony in support of Senate Bill 366. This legislation will update Wisconsin's extortion statutes to keep up with advances in technology and reflect the fact that there are many more ways to disseminate information than in the past. The bill was drafted at the request of the Ozaukee County District Attorney, Adam Gerol.

With the advent of new technologies, such as smartphones, social media, and other online applications, there is an ever increasing opportunity for people to be victimized by unscrupulous individuals trying to extort money, property, or other actions from them against their will. A rapidly growing example of this is what is commonly referred to as "sextortion," where a person obtains intimate photos, audio, or video of another person and threatens to expose this information if the person does not give them money or perform other actions against their will.

DA Gerol demonstrated in a recent case he had charged in Ozaukee County how the existing statutory language does not adequately fit a variety of these new modern threats. In this particular case, a female college student was extorted for money by an individual who posed as another college student online and obtained intimate photos and audio recordings of her. This type of case is unfortunately becoming increasingly common and is a growing problem.

Current law (s. 943.31) prohibits an individual from threatening to communicate information about another person, whether true or false, that would injure the reputation of the threatened person unless the person transfers property to someone not entitled to it, under penalty of a class I felony.

However, the statutory language does not clearly prohibit the act of threatening to expose embarrassing or damaging information about someone to family, friends, or other members of the public. In the above case where a man threatened to publicize a phone sex recording he supposedly had with the victim unless she paid him money, current law was inadequate in a couple of ways: 1) there is ambiguity about whether

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newer technology such as cell phone recordings or pictures meet the old statutory definition of "information;" 2) current law requires injury to the victim's reputation, but it leaves unclear whether the threat of shame and embarrassment rises to this level. Current law also fails to clearly address forcing someone to act against their will under threat of exposing information.

SB 366 clarifies that anyone who threatens to expose information in order to extort money, property, or force someone to act against their will is guilty of a class I felony. The penalty remains the same as current law. It also clarifies that the term "information" under the statute include any visual image, audio representation, or video recording.

Thank you again for the opportunity to provide testimony in support of SB 366. If any committee members have further questions, I would be happy to answer them at this time.



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## Memo

To: Senate Committee Judiciary and Public Safety

From: Representative Jim Ott

Subject: Bill Author Testimony in Support of Senate Bill 366

Thank you for hearing my testimony on Senate Bill 366. I apologize for being unable to testify in person, as I am currently chairing the Assembly Judiciary committee.

This bill amends section 943.31 of our statutes to keep our law current with advances in technology. Currently, section 943.31 prohibits an individual from threatening to communicate information about another person, whether true or false, that would injure the reputation of the threatened person unless the person transfers property to someone not entitled to it under penalty of a class I felony.

Wisconsin does not have statutory language that clearly prohibits the act of threatening to expose embarrassing or damaging information about someone to family, friends or the public. For example, in a case where a man threatened to publicize phone sex he supposedly had with the victim unless she paid him money, current law was inadequate as 1) newer technology such as cell phone recordings or pictures might not count as information and 2) current law requires injury to the victim's reputation, while the threat of shame and embarrassment may not rise to this level. Current law also fails to clearly address forcing someone to act against their will under threat of exposing information.

Senate Bill 366 clarifies that anyone who threatens to expose information in order to extort money or to force someone to act against their will is still guilty of a Class I felony. This bill also stipulates that the term 'information' include any visual image, audio representation or recording.