



I MINA'TRENTAI TRES NA LIHESLATURAN GUÁHAN
2016 (SECOND) Regular Session

Bill No. 311-333 (COR)

Introduced by:

J. T. Won Pat, Ed.D. 

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AN ACT TO *ADD* A NEW § 28.110. TO CHAPTER 28 OF TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO UNLAWFUL DISTRIBUTION OF IMAGES OF PERSONS DEPICTED IN A STATE OF NUDITY OR ENGAGED IN SEXUAL ACTIVITIES, OTHERWISE KNOWN AS “REVENGE PORNOGRAPHY.”

1 **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2 **Section 1.** A new §28.110 is hereby *added* to Chapter 28 of Title 9, Guam
3 Code Annotated, to read as follows:

4 “§28.110. **Unlawful Distribution of Images; Exceptions; Definitions; and**
5 **Penalties.**

6 (a) It is unlawful for a person to intentionally disclose, or intentionally cause
7 another person to disclose, including disclosing by electronic means, an
8 image of another person who is identifiable from the image itself or from
9 information displayed in connection with the image, or otherwise engaging
10 in revenge pornography, if *all* of the following apply:

11 (1) The person in the image is depicted in a state of nudity or is engaged
12 in sexual contact.

1 (2)The depicted person has a reasonable expectation of privacy.
2 Evidence that a person has sent an image to another person, including
3 through the use of an electronic device, does not, on its own, remove
4 the person's reasonable expectation of privacy for that image.

5 (3)The image is disclosed with the intent to harm, harass, intimidate,
6 threaten, or coerce the depicted person.

7 (b)This Section *shall not* apply to any of the following:

8 (1)Lawful and common practices of law enforcement;

9 (2)Reporting unlawful activity, or when permitted or required by law or
10 rule in legal proceedings;

11 (3)Lawful and common practices of medical treatment;

12 (4)Images involving voluntary exposure in a public or commercial
13 setting;

14 (5)An interactive computer service, as defined in 47 U.S.C. § 230(f)(2),
15 or an information service, as defined in 47 U.S.C. § 153, with regard
16 to content provided by another person; or

17 (6)Any disclosure that is made with the consent of the person who is
18 depicted in the image.

19 (c)For this Section's purposes:

20 (1)*Disclose* means display, distribute, publish, advertise, or offer.

21 (2)*Disclosing by electronic means* means delivery to an e-mail address,
22 mobile device, tablet, other electronic device, or disclosure on a
23 website.

24 (3)*Harm* means physical injury, financial injury, or serious emotional
25 distress.

26 (4)*Image* means a photograph, videotape, film, or digital recording.

1 (5) *Intimate parts* means the naked genitals, pubic area, buttocks, or
2 female nipple.

3 (6) *Sexual contact* means sexual intercourse, including genital–genital,
4 oral–genital, anal–genital, or oral–anal, whether between persons of
5 the same or opposite sex.

6 (7) *Reasonable expectation of privacy* means the person exhibits an actual
7 expectation of privacy and the expectation is reasonable.

8 (d) Notwithstanding any law to the contrary, any individual convicted under this
9 § 28.110 shall be as follows: (1) A person convicted of a first offense under
10 this § 28.110 shall be guilty of a misdemeanor and, upon conviction thereof,
11 shall be fined not more than One Thousand Dollars (\$1,000) or imprisoned
12 for not more than one (1) year, or both; (2) A person convicted of a second
13 offense and any offense thereafter under this § 28.110 shall be guilty of a
14 third degree felony; (3) A minor convicted under this § 28.110 shall be
15 guilty of an offense of Illegal Use of a Computer Telecommunications
16 Device Involving a Minor, otherwise known as Sexting, as defined under 9
17 GCA § 28.100.