Honorable Judith T. Won Pat, Ed.D.
Speaker
I Mina’trentai Tres Na Lihesluran Guåhan
155 Hesler Street
Hagåtña, Guam 96910

Dear Madame Speaker:

Transmitted herewith is Bill No. 311-33 (COR), "AN ACT TO ADD A NEW § 28.102 TO ARTICLE 2 OF CHAPTER 28, TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO THE UNLAWFUL DISTRIBUTION OF IMAGES OF PERSONS DEPICTED IN A STATE OF NUDITY OR ENGAGED IN SEXUAL ACTIVITIES, OTHERWISE KNOWN AS "REVENGE PORNOPHORY," which was signed into law on June 30, 2016, as Public Law 33-171.

Senseramente,

EDDIE BAZA CALVO
I MINA' TREN TAI TRES NA LIHESLATURAN GUÅHAN
2016 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA' LÅHEN GUÅHAN

This is to certify that Bill No. 311-33 (COR), "AN ACT TO ADD A NEW § 28.102 TO ARTICLE 2 OF CHAPTER 28, TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO THE UNLAWFUL DISTRIBUTION OF IMAGES OF PERSONS DEPICTED IN A STATE OF NUDITY OR ENGAGED IN SEXUAL ACTIVITIES, OTHERWISE KNOWN AS "REVENGE PORNOGRAPHY," was on the 17th day of June 2016, duly and regularly passed.

[Signature]
Benjamin J. F. Cruz
Acting Speaker

Attested:
[Signature]
Tina Rose Muña Barnes
Legislative Secretary

This Act was received by I Maga'låhen Guåhan this 20th day of June, 2016, at 5:36 o'clock a.m.

[Signature]
Assistant Staff Officer
Maga'låhi's Office

APPROVED:
[Signature]
EDWARD J.B. CALVO
I Maga'låhen Guåhan

Date: JUN 30 2016

Public Law No. 33-171
AN ACT TO ADD A NEW § 28.102 TO ARTICLE 2 OF CHAPTER 28, TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO THE UNLAWFUL DISTRIBUTION OF IMAGES OF PERSONS DEPICTED IN A STATE OF NUDITY OR ENGAGED IN SEXUAL ACTIVITIES, OTHERWISE KNOWN AS "REVENGE PORNOGRAPHY."

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. A new § 28.102 is hereby added to Article 2 of Chapter 28 of Title 9, Guam Code Annotated, to read as follows:
§ 28.102. Unlawful Distribution of Images; Exceptions; Definitions; and Penalties.

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

(1) the person in the image is depicted in a state of nudity or is engaged in sexual contact;

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

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

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

(1) lawful and common practices of law enforcement;

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

(3) lawful and common practices of medical treatment;

(4) images involving voluntary exposure in a public or commercial setting;

(5) an interactive computer service, as defined in 47 U.S.C. § 230(f)(2), or an information service, as defined in 47 U.S.C. § 153, with regard to content provided by another person; or
(6) any disclosure that is made with the consent of the person

who is depicted in the image.

(c) For this Section’s purposes:

(1) Disclose means display, distribute, publish, advertise, or

offer.

(2) Disclosing by electronic means means delivery to an e-

mail address, mobile device, tablet, other electronic device, or
disclosure on a website.

(3) Harm means physical injury, financial injury, or serious

emotional distress.

(4) Image means a photograph, videotape, film, or digital

recording.

(5) State of nudity means exposure of the naked genitals,

pubic area, buttocks, or female nipple.

(6) Sexual contact means sexual intercourse, including

genital-genital, oral-genital, anal-genital, or oral-anal, whether between

persons of the same or opposite sex.

(7) Reasonable expectation of privacy means the person

exhibits an actual expectation of privacy and the expectation is

reasonable.

(d) Notwithstanding any law to the contrary, any individual

convicted under this § 28.102 shall be sentenced as follows: (1) a person

convicted of a first offense under this § 28.102 shall be guilty of a

misdemeanor and, upon conviction thereof, shall be fined not more than One

Thousand Dollars ($1,000) or imprisoned for not more than one (1) year, or

both; and (2) a person convicted of a second offense and any offense thereafter

under this § 28.102 shall be guilty of a third degree felony.”