


**I MINA'TRENTAI UNU NA LIHESLATURAN GUÅHAN  
2012 (SECOND) Regular Session**

**Bill No.** 476-31 (COR)

Introduced by:

Adolpho B. Palacios, Sr. 

**AN ACT TO ADD A NEW SUBSECTION (i) TO  
§28.40 OF ARTICLE 2, CHAPTER 28, TITLE 9,  
GUAM CODE ANNOTATED, RELATIVE TO  
DEFINING THE TERM "PORNOGRAPHIC".**

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

2       **Section 1. Legislative Findings and Intent.** *I Liheslaturan*  
3 *Guåhan* finds, through communication and collaboration with the  
4 Office of the Attorney General, that the images of child pornography  
5 frequently involve child victims of sexual assault or exploitation, and  
6 that the possession, creation, and dissemination of child pornography  
7 occurs over the internet, especially among pedophiles. According to  
8 the Office of the Attorney General of Guam, there have recently been  
9 cases involving the possession of child pornography here on Guam,  
10 but the Office's Prosecution Division has had to forgo charging the  
11 specific crimes of "child pornography". The Office of the Attorney  
12 General of Guam discovered that Guam's Statutes relative to child  
13 pornography did not specifically define the term "pornography" or

1 “pornographic” and the references in the definition of “child  
2 pornography” found in the Statute were circular and referred to  
3 Chapter 28 of Title 9 G.C.A. for the specific definition of  
4 “pornographic.”

5 Moreover, *I Liheslaturan Guåhan* finds that a definition for the  
6 term “pornography” or “pornographic” is not present in Chapter 28.  
7 It appears to have been an oversight or may have been inadvertently  
8 omitted as much of Chapter 28 was modeled after applicable laws in  
9 the State of Hawaii.

10 Therefore, *I Liheslaturan Guåhan* intends to provide for a  
11 definition in Statute for the term “pornographic”, by adding a new  
12 Subsection (i) to §28.40 of Article 2, Chapter 28, Title 9, Guam Code  
13 Annotated. Through the enactment of this Act, *I Liheslatura* further  
14 intends for the Office of the Attorney General of Guam to have the  
15 foundation for which to file criminal charges against individuals  
16 involved in the possession, creation and dissemination of child  
17 pornography.

18 **Section 2. “Pornographic” Defined.** A new Subsection (i) is  
19 hereby *added* to §28.40 of Article 2, Chapter 28, Title 9, Guam Code  
20 Annotated, to read:

21 **“§28.40. Definitions.**

22 (i) *Pornographic* means any material or performance which  
23 all of the following coalesce:

1           (1)The average person, applying contemporary  
2           community standards would find that taken as a  
3           whole, it appears to the prurient interest.

4           (2)It depicts or describes sexual conduct in a patently  
5           offensive way.

6           (3)Taken as whole, it lacks serious literary, artistic,  
7           political, or scientific merit.”

8           **Section 3. Effective Date.** This Act shall be effective upon  
9           enactment.