

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

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Bill No. 482-31(COR)

Introduced by:

Adolpho B. Palacios, Sr.

AN ACT TO AMEND §§25.01.20, 25.01.30 AND
25.01.40 OF CHAPTER 25.01, TITLE 9, GUAM CODE
ANNOTATED, RELATIVE TO THE
SOLICITATION OF CHILDREN AND CHILD
PORNOGRAPHY.

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 there is a need to update Guam's
5 criminal laws in order to combat the different forms of crimes taking
6 shape over the internet and cyberspace.

7 *I Liheslaturan Guåhan* is especially concerned with internet
8 crimes against children. As a matter of reference, P.L. 29-63, which
9 seeks to update Guam's laws to protect children from online
10 predators, was enacted in April 2008. P.L. 29-63 established the
11 penalties for individuals found guilty of crimes involving the
12 solicitation of children and child pornography including indecent

1 electronic display to a child, electronic enticement of a child as a third
2 degree felony, possession of child pornography, and dissemination of
3 child pornography.

4 *I Liheslaturan Guåhan* further finds it necessary to amend the
5 current electronic enticement laws, as recognized and recommended
6 by the Office of the Attorney General, in order to correct a clerical
7 oversight that might have occurred when the current legislation was
8 finalized resulting in the Statute being unclear as to the elements of
9 the crime.

10 Therefore, *I Liheslatura* intends to correct such clerical and
11 technical error so that there will be no issues as to the clarity and
12 intent of applicable Statutes with respect to crimes involving the
13 solicitation of children and child pornography.

14 **Section 2.** Sections 25.01.20, 25.01.30 and 25.01.40 of Chapter
15 25.01, Title 9, Guam Code Annotated, are hereby *amended*, to read:

16 “§25.01.20. **Electronic Enticement of a Child as a Third**
17 **Degree Felony.**

18 (a~~1~~)Any person who, ~~knowingly~~ usesing a computer online
19 service, internet service, or any other device capable of
20 electronic data storage or transmission to solicit, lure, or entice,
21 or attempt to solicit, lure, or entice:

22 (1a) Intentionally or knowingly communicates:

1 (i) With a minor known by the person to be under the age of
2 eighteen (18) years;

3 (2ii) With another person, in reckless disregard of the risk
4 that the other person is under the age of eighteen (18)
5 years, and the other person is under the age of eighteen
6 (18) years; or

7 (3iii) With another person who represents him *or* herself to
8 be under the age of eighteen (18) years, with the intent to
9 promote *or* facilitate the commission of an unlawful
10 sexual act or sexual offense in violation of Guam Law, or
11 another criminal offense as set forth in Title 9 GCA
12 Chapter 89, Section 89.01,

13 is guilty of electronic enticement of a child as a Third Degree
14 Felony.

15 (b2) Electronic enticement of a child under this Section is a
16 Third Degree Felony.

17 (€3) Each separate use of a computer online service, Internet
18 service, *or* any other device capable of electronic data storage or
19 transmission wherein an offense described in this Section is
20 committed may be charged as a separate offense.

21 (Δ4) It *shall not* constitute a defense against any charge or
22 violation of this Section that a law enforcement officer, peace
23 officer, or other person working at the direction of law

1 enforcement was involved in the detection or investigation of a
2 violation of this section.”

3 “§25.01.30. **Electronic Enticement of a Child as a Second**
4 **Degree Felony.**

5 (a~~1~~) Any person who, using a computer online service, Internet
6 service, *or* any other device capable of electronic data storage *or*
7 transmission;

8 (a) Intentionally *or* knowingly communicates:

9 (1i) With a minor known by the person to be under the
10 age of eighteen (18) years;

11 (2ii) With another person, in reckless disregard of the
12 risk that the other person is under the age of eighteen
13 (18) years, and the other person is under the age of
14 eighteen (18) years; *or*

15 (3iii) With another person who represents him *or* herself
16 to be under the age of eighteen (18) years; *and*

17 (b) With the intent to promote or facilitate the
18 commission of a felony, *or* another criminal offense as
19 set forth in Title 9 GCA Chapter 89, §89.01, agrees to
20 meet with the minor, *or* with another person who
21 represents him *or* herself to be a minor under the age
22 of eighteen (18) years; and

1 (c) Intentionally or knowingly travels to the agreed upon
2 meeting place at the agreed upon meeting time;

3 is guilty of electronic enticement of a child as a Second Degree
4 Felony.

5 (b2) Electronic enticement of a child under this Section is a
6 Second Degree Felony."

7 "**§25.01.40. Electronic Enticement of a Child as a First Degree**
8 **Felony.**

9 (a1) Any person who, using a computer online service, internet
10 service, or any other device capable of electronic data storage or
11 transmission;

12 (a) Intentionally or knowingly communicates:

13 (1i) Wwith a minor known by the person to be under the
14 age of eighteen (18) years;

15 (2ii) Wwith another person, in reckless disregard of the
16 risk that the other person is under the age of eighteen (18)
17 years; or

18 (3iii) Wwith another person who represents him or
19 herself to be under the age of eighteen (18) years;

20 (4b) Wwith the intent to promote or facilitate the commission of
21 a felony:

22 (Ai) Tthat is murder or aggravated murder as defined in
23 Title 9 GCA Chapter 16;

1 (~~B~~ii) ~~T~~hat is a first degree felony; or
2 (~~C~~iii) ~~T~~hat is another criminal offense as set forth in Title
3 9 GCA Chapter 89, §89.01,
4 agrees to meet with the minor, or with another person who
5 represents him or herself to be a minor under the age of
6 eighteen (18) years; and
7 (~~5~~c) Intentionally or knowingly travels to the agreed upon
8 meeting place at the agreed upon meeting time,
9 is guilty of electronic enticement of a child as a First Degree
10 Felony.

11 (~~b~~2)Electronic enticement of a child under this Section is a First
12 Degree Felony.”

13 **Section 3. Effective Date.** This Act shall be effective upon
14 enactment.