

I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN
2014 (SECOND) Regular Session

Bill No. 273-32 (COK)

Introduced by

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**AN ACT REPEAL § 70.35 OF CHAPTER 70, TITLE 9, GUAM
CODE ANNOTATED; AND TO ADD A NEW ARTICLE 3 TO
CHAPTER 28 OF TITLE 9, GUAM CODE ANNOTATED,
RELATIVE TO INVASION OF PRIVACY.**

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guahan* finds that
3 the community of Guam is disturbed that its laws have not kept pace with audio,
4 video and electronic digital camera technology which, though designed to heighten
5 the quality of life, can also be used for nefarious or perverse purposes. *I Liheslatura*
6 further finds that recently, a man, convicted for using electronic audio/video
7 technology or cameras to engage in surreptitious surveillance of women using
8 restroom facilities, only faced a misdemeanor penalty. The victims in this case
9 suffered not only a gross and severe invasion of their privacy, but a violation of their
10 personal and physical dignity, in addition to other psychological harm.

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1 *I Liheslaturan Guahan intends to address this serious problem which bears in*
2 *mind the need to balance privacy rights in circumstances where surveillance may be*
3 *legitimate.*

4 **Section 2.** Section 70.35 of Chapter 70 of Title 9, Guam Code Annotated, is
5 hereby repealed:

6 ~~§ 70.35. Invasion of Privacy: Penalty; Definitions.~~

7 ~~(a) A person commits a misdemeanor if, except as authorized by law, if he:~~

8 ~~(1) trespasses on property with intent to subject anyone to eavesdropping or other~~
9 ~~surveillance in a private place;~~

10 ~~(2) installs in any private place, without the consent of the person or persons entitled~~
11 ~~to privacy there, any device for observing, photographing, recording, amplifying or~~
12 ~~broadcasting sounds or events in such place, or uses any such unauthorized~~
13 ~~installation;~~

14 ~~(3) installs or uses outside a private place any device for hearing, recording,~~
15 ~~amplifying or broadcasting sounds originating in such place which would not~~
16 ~~ordinarily be audible or comprehensible outside, without the consent of the person~~
17 ~~or persons entitled to privacy there;~~

18 ~~(4) intercepts without the consent of the sender or receiver a message by telephone,~~
19 ~~telegraph, letter or other means of communicating privately; but this Paragraph does~~
20 ~~not extend to:~~

1 ~~(A) overhearing of messages through a regularly installed instrument on a~~
2 ~~telephone party line or on an extension; or~~

3 ~~(B) interception by the telephone company or subscriber incident to~~
4 ~~enforcement of regulations limiting use of the facilities or to other normal~~
5 ~~operation and use; or~~

6 ~~(5) divulges without the consent of the sender or receiver the existence or contents~~
7 ~~of any message described in Paragraph (4) if the defendant knows that the message~~
8 ~~was illegally intercepted, or if he learned of the message in the course of employment~~
9 ~~with an agency engaged in transmitting it.~~

10

11 **Section 3.** A new Article 3 is hereby added to Chapter 28 of Title 9, Guam
12 Code Annotated, to read:

13

“ARTICLE 3

14

§ 70.35. INVASION OF PRIVACY: PENALTY: DEFINITIONS

15 (a) A person commits a misdemeanor if, except as authorized by law, he:

16 (1) Knowing that he is not licensed or privileged to do so, enters or
17 surreptitiously remains on property for the intent to subject anyone to
18 eavesdropping or to non-consented observation in a private place; or

1 (2) Knowing that he is not licensed or privileged to do so, looks through a
2 hole or opening of a bedroom, bathroom, changing room, fitting room,
3 dressing room or the interior of any other area in which the occupant has a
4 reasonable expectation of privacy, with the intent to subject the occupant to
5 non-consented observations; or

6 (3) Installs in any private place any device for observing, photographic,
7 recording, amplifying or broadcasting sounds or events in such private place,
8 without the consent of at least one person entitled to privacy there or the owner
9 or possessor of such private place; or

10 (4) Installs in any private place any device for hearing, recording, amplifying,
11 or broadcasting sounds originated in such private place which would not
12 ordinarily be audible or comprehensible of at least one person entitled to
13 privacy there or the owner or possessor of such private place; or

14 (5) Intercepts without the consent of the sender or receiver a message by
15 telephone, telegraph, letter or other means of communicating privately; but
16 this paragraph does not extend to:

17 (A) overhearing of messages through a regularly installed instrument
18 on a telephone party line or on an extension; or

1 (B) interception by the telephone company or subscriber incident to
2 enforcement of regulations limiting use of the facilities or to other
3 normal operation and use; or

4 (6) Divulges without the consent of the sender or receiver the existence of
5 contents of any message described in paragraph (4) if the defendant knows
6 that the message was illegally intercepted, or if he learned of the message in
7 the course of employment with an agency engaged in transmitting it.

8 (b) Whoever uses or attempts to use any device for hearing, observing,
9 photographing, recording, amplifying or broadcasting in violation of (a)(1) or (a)(2)
10 *supra*, is guilty of a felony of the third degree.

11 **Section 4.** Effective Date. This Act shall become effective upon enactment.

12 **Section 5.** Severability. *If* any of the provisions of this law or its application
13 to any person or circumstance is found to be invalid or contrary to law, such
14 invalidity *shall* not affect other provisions or applications of this law which can be
15 given effect without the invalid provisions or application, and to this end the
16 provisions of this law are severable