EDDIE BAZA CALVO
Governor

RAY TENORIO
Lieutenant Governor

Office of the Governor of Guam

JUL 08 2016

Honorable Judith T. Won Pat, Ed.D.
Speaker
I Mina'trentai Tres Na Liheslaturan 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 PORNOGRAPHY,"** which was signed into law on June 30, 2016, as **Public Law 33-171.**

Senseramente,

EDDIE BAZA CALVO

2016 JUL 12 AM 10:49

33-16-1763

Office of the Speaker
Judith T. Won Pat, Ed.D

Date: 7-11-16
Time: 12:11pm
Received By: DM

1763

P.O. Box 2950 • Hagatna, Guam 96932
Tel: (671) 472-8931 • Fax: (671) 477-4826 • governor.guam.gov • calendar.guam.gov
Eddie Baza Calvo @eddiebazacalvo @governorcalvo governorofguam

I MINA'TRENTAI 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.

Benjamin J. F. Cruz
Acting Speaker

Attested:

Tina Rose Muña Barnes
Legislative Secretary

This Act was received by *I Maga'låhen Guåhan* this 20th day of June, 2016, at 5:35 o'clock P.M.

PO2 R.S. Manuela #364
Assistant Staff Officer
Maga'låhi's Office

APPROVED:

EDWARD J.B. CALVO
I Maga'låhen Guåhan

Date: JUN 30 2016

Public Law No. 33-171

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

Bill No. 311-33 (COR)
As amended on the Floor.

Introduced by:

Judith T. Won Pat, Ed.D.
T. R. Muña Barnes
Frank F. Blas. Jr.
James V. Espaldon
T. C. Ada
V. Anthony Ada
FRANK B. AGUON, JR.
B. J.F. Cruz
Brant T. McCreadie
Tommy Morrison
R. J. Respicio
Dennis G. Rodriguez, Jr.
Michael F.Q. San Nicolas
Mary Camacho Torres
N. B. Underwood, Ph.D.

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:

1 "**§ 28.102. Unlawful Distribution of Images; Exceptions;**
2 **Definitions; and Penalties.**
3 (a) It is unlawful for a person to intentionally disclose, or
4 intentionally cause another person to disclose, including disclosing by
5 electronic means, an image of another person who is identifiable from the
6 image itself or from information displayed in connection with the image, or
7 otherwise engaging in revenge pornography, if all of the following apply:
8 (1) the person in the image is depicted in a state of nudity or
9 is engaged in sexual contact;
10 (2) the depicted person has a reasonable expectation of
11 privacy. Evidence that a person has sent an image to another person,
12 including through the use of an electronic device, does not, on its own,
13 remove the person's reasonable expectation of privacy for that image;
14 and
15 (3) the image is disclosed with the intent to harm, harass,
16 intimidate, threaten, or coerce the depicted person.
17 (b) This Section *shall not* apply to any of the following:
18 (1) lawful and common practices of law enforcement;
19 (2) reporting unlawful activity, or when permitted or required
20 by law or rule in legal proceedings;
21 (3) lawful and common practices of medical treatment;
22 (4) images involving voluntary exposure in a public or
23 commercial setting;
24 (5) an interactive computer service, as defined in 47 U.S.C. §
25 230(f)(2), or an information service, as defined in 47 U.S.C. § 153, with
26 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."