

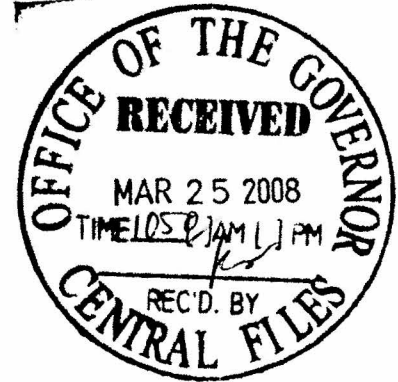


MINA' BENTE NUEBI NA LIHESLATURAN GUÅHAN
TWENTY-NINTH GUAM LEGISLATURE
155 Hessler Place, Hagåtña, Guam 96910

FILE COPY

March 24, 2008

The Honorable Felix P. Camacho
I Maga'lahaen Guåhan
Ufisinan I Maga'lahi
Hagåtña, Guam 96910



Dear *Maga'lahi* Camacho:

Transmitted herewith are Bill Nos. 72(EC), 120(EC), 138(EC), 164(LS), 166(EC), 186(EC), 222(LS); and Substitute Bill Nos. 1(LS), 25(EC), 118(EC) & 185(EC) which were passed by *I Mina'Bente Nuebi Na Liheslaturan Guåhan* on March 21, 2008.

Sincerely,

TINA ROSE MUNA BARNES
Senator and Secretary of the Legislature

Enclosures (11)

I MINA'BENTE NUEBI NA LIHESLATURAN GUÅHAN
2008 (SECOND) Regular Session

FILE COPY

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

This is to certify that Substitute Bill No. 185 (EC), "AN ACT TO ADD A NEW CHAPTER 25.01 TO TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO THE SOLICITATION OF CHILDREN OVER THE INTERNET OR OTHER ELECTRONIC MEANS FOR IMMORAL PURPOSES AND CHILD PORNOGRAPHY," was on the 21st day of March, 2008, duly and regularly passed.



JUDITH T. WON PAT
Speaker

Attested:


TINA ROSE MUÑA BARNES

Senator and Secretary of the Legislature

This Act was received by *I Maga'lahaen Guåhan* this 25 day of March, 2008, at
10:50 o'clock A.M.



Assistant Staff Officer
Maga'lahi's Office

APPROVED:

FELIX P. CAMACHO
I Maga'lahaen Guåhan

Date: _____

Public Law No. _____

I MINA'BENTE NUEBI NA LIHESLATURAN GUÅHAN
2007 (FIRST) Regular Session

Bill No. 185 (EC)

As substituted by the Committee on
Public Safety, Criminal Justice & Youth
and amended on the Floor.

Introduced by:

Ray Tenorio
Frank F. Blas, Jr.
A. B. Palacios, Sr.
David L.G. Shimizu
Edward J.B. Calvo
B. J.F. Cruz
James V. Espaldon
Mark Forbes
Judith Paulette Guthertz
Frank T. Ishizaki
J. A. Lujan
Tina Rose Muña Barnes
v. c. pangelinan
R. J. Respicio
J. T. Won Pat, Ed.D.

**AN ACT TO *ADD* A NEW CHAPTER 25.01 TO TITLE 9,
GUAM CODE ANNOTATED, RELATIVE TO THE
SOLICITATION OF CHILDREN OVER THE INTERNET *OR*
OTHER ELECTRONIC MEANS FOR IMMORAL PURPOSES
AND CHILD PORNOGRAPHY.**

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. A new Chapter 25.01 is hereby *added* to Title 9, Guam Code
Annotated, to read:

“CHAPTER 25.01

SOLICITATION OF CHILDREN AND CHILD PORNOGRAPHY

1 **§25.01.00. Legislative Findings and Intent.** *I Liheslaturan Guåhan*

2 finds that there is a critical need to clearly and explicitly define material that is
3 obscene, material that is pornographic for minors and child pornography, as well
4 as to update Guam’s laws to protect children from internet predators. The internet
5 is arguably the most important learning tool of the Twenty-first (21st) Century.
6 Unfortunately, the same internet also poses one of the greatest threats to child
7 safety.

8 It is the intent of *I Liheslatura* to ensure that our laws are strong enough to
9 adequately protect Guam’s children from online predators and child pornography
10 and to severely punish the offenders.

11 **§25.01.10. Indecent Electronic Display to a Child.**

12 (a) Any person who intentionally masturbates *or* intentionally
13 exposes the genitals of him *or* herself, *or* of another, in a lewd *or*
14 lascivious manner live over a computer online service, internet
15 service, *or* local bulletin board service, and who knows *or* should
16 know *or* has reason to believe that the transmission is viewed on a
17 computer *or* other device capable of electronic data storage *or*
18 transmission, by:

19 (1) a minor known by the person to be under the age of
20 eighteen (18) years;

21 (2) another person, in reckless disregard of the risk that the
22 other person is under the age of eighteen (18) years, and the
23 other person is under the age of eighteen (18) years; or

24 (3) another person who represents him *or* herself to be under
25 the age of eighteen (18) years is guilty of indecent electronic
26 display to a child.

1 (b) Indecent electronic display to a child is a Third Degree Felony.

2 (c) It *shall not* constitute a defense against any charge *or* violation
3 of this Section that a law enforcement officer, peace officer, *or* other
4 person working at the direction of law enforcement was involved in
5 the detection *or* investigation of a violation of this Section.

6 **§25.01.20. Electronic Enticement of a Child as a Third Degree Felony.**

7 (a) Any person who knowingly uses a computer online service,
8 internet service, *or* any other device capable of electronic data storage *or*
9 transmission to solicit, lure, *or* entice, *or* attempt to solicit, lure, *or* entice:

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

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

15 (3) another person who represents him *or* herself to be under
16 the age of eighteen (18) years, with the intent to promote *or*
17 facilitate the commission of another criminal offense as set
18 forth in Title 9 GCA Chapter 89, Section 89.01, is guilty of
19 electronic enticement of a child as a Third Degree Felony.

20 (b) Electronic enticement of a child under this Section is a Third
21 Degree Felony.

22 (c) Each separate use of a computer online service, Internet
23 service, *or* any other device capable of electronic data storage *or*
24 transmission wherein an offense described in this Section is committed may
25 be charged as a separate offense.

1 (d) It *shall not* constitute a defense against any charge *or* violation
2 of this Section that a law enforcement officer, peace officer, *or* other person
3 working at the direction of law enforcement was involved in the detection
4 *or* investigation of a violation of this Section.

5 **§25.01.30. Electronic Enticement of a Child as a Second Degree**
6 **Felony.**

7 (a) Any person who, using a computer online service, Internet
8 service, *or* any other device capable of electronic data storage *or*
9 transmission intentionally *or* knowingly communicates:

10 (1) with a minor known by the person to be under the age of
11 eighteen (18) years;

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

15 (3) with another person who represents him *or* herself to be
16 under the age of eighteen (18) years; and with the intent to
17 promote *or* facilitate the commission of a felony, *or* another
18 criminal offense as set forth in Title 9 GCA Chapter 89,
19 §89.01, agrees to meet with the minor, *or* with another person
20 who represents him *or* herself to be a minor under the age of
21 eighteen (18) years, is guilty of electronic enticement of a child
22 as a Second Degree Felony.

23 (b) Electronic enticement of a child under this Section is a Second
24 Degree Felony.

1 **§25.01.40. Electronic Enticement of a Child as a First Degree Felony.**

2 (a) Any person who, using a computer online service, internet
3 service, *or* any other device capable of electronic data storage *or*
4 transmission intentionally *or* knowingly communicates:

5 (1) with a minor known by the person to be under the age of
6 eighteen (18) years;

7 (2) with another person, in reckless disregard of the risk that
8 the other person is under the age of eighteen (18) years, and the
9 other person is under the age of eighteen (18) years; *or*

10 (3) with another person who represents him *or* herself to be
11 under the age of eighteen (18) years;

12 (4) with the intent to promote *or* facilitate the commission of
13 a felony:

14 (A) that is murder *or* aggravated murder as defined in
15 Title 9 GCA Chapter 16;

16 (B) that is a first degree felony; *or*

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

22 (5) Intentionally *or* knowingly travels to the agreed upon
23 meeting place at the agreed upon meeting time, is guilty of
24 electronic enticement of a child as a First Degree Felony.

25 (b) Electronic enticement of a child under this Section is a First
26 Degree Felony.

1 **Part II. Child Pornography**

2 **§25.01.50. Definitions.** As used in this Chapter:

3 (a) *Child pornography* means any pornographic visual
4 representation, including any photograph, film, video, picture, *or* computer
5 *or* computer-generated image *or* picture, whether made *or* produced by
6 electronic, mechanical, *or* other means, of sexual conduct, *if*:

7 (1) the pornographic production of the visual representation
8 involves the use of a minor engaging in sexual conduct; *or*

9 (2) the pornographic visual representation has been created,
10 adapted, *or* modified to appear that an identifiable minor is
11 engaging in sexual conduct.

12 (b) *Community standards* means the standards of Guam.

13 (c) *Computer* means any electronic, magnetic, optical,
14 electrochemical, *or* other high-speed data processing device performing
15 logical, arithmetic, *or* storage functions, and includes, all computer
16 equipment connected *or* related to such a device in a computer system *or*
17 computer network, but *shall not* include an automated typewriter *or*
18 typesetter, a portable hand-held calculator, *or* other similar device.

19 (d) *Computer equipment* means any equipment *or* devices,
20 including all input, output, processing, storage, software, *or*
21 communications facilities, intended to interface with the computer.

22 (e) *Computer network* means two (2) *or more* computers *or*
23 computer systems, interconnected by communication lines, including
24 microwave, electronic, *or* any other form of communication.

25 (f) *Computer program or software* means a set of computer-
26 readable instructions *or* statements and related data that, when executed by

1 a computer system, causes the computer system *or* the computer network to
2 which it is connected to perform computer services.

3 (g) *Computer services* includes, but is *not limited to* the use of a
4 computer system, computer network, computer program, data prepared for
5 computer use, and data contained within a computer system *or* computer
6 network.

7 (h) *Computer system* means a set of interconnected computer
8 equipment intended to operate as a cohesive system.

9 (i) *Data* means information, facts, concepts, software, *or*
10 instructions prepared for use in a computer, computer system, *or* computer
11 network.

12 (j) *Lascivious* means tending to incite lust to deprave the morals
13 with respect to sexual relations, *or* to produce voluptuous *or* lewd emotions
14 in the average person, applying contemporary community standards.

15 (k) *Material* means any printed matter, visual representation, *or*
16 sound recording and includes, but is *not limited to*, books, magazines,
17 motion picture films, pamphlets, newspapers, pictures, photographs, and
18 tape *or* wire recordings.

19 (l) *Minor* means any person less than eighteen (18) years old.

20 (m) *Pornographic shall* have the same meaning as in Title 9 GCA
21 Chapter 28, Article 2.

22 (n) *Sadomasochistic abuse* means flagellation *or* torture by *or*
23 upon a person as an act of sexual stimulation *or* gratification.

24 (o) *Sexual conduct* means acts of sexual penetration, sexual
25 contact, masturbation, bestiality, sexual penetration, deviate sexual

1 intercourse, sadomasochistic abuse, *or* lascivious exhibition of the genital
2 *or* pubic area of a minor.

3 (p) *Visual representation* includes, but is *not limited to*,
4 undeveloped film and videotape and data stored on computer disk or by
5 electronic means that are capable of conversion into a visual image.

6 (q) *Disseminate* means to publish, sell, distribute, transmit, exhibit,
7 present material, mail, ship, *or* transport by any means, including by
8 computer, *or* to offer *or* agree to do the same.

9 **§25.01.60. Possession of Child Pornography.**

10 (a) A person commits the offense of possession of child pornography
11 *if*, knowing *or* having reason to know its character and content, the person
12 possesses:

13 (1) child pornography;

14 (2) any book, magazine, periodical, film, videotape,
15 computer disk, electronically stored data, *or* any other material that
16 contains an image of child pornography; or

17 (3) any pornographic material that employs, uses, *or*
18 otherwise contains a minor engaging in *or* assisting others to engage
19 in sexual conduct.

20 (b) The fact that a person engaged in the conduct specified by this
21 Section is *prima facie* evidence that the defendant had knowledge of the
22 character and content of the material. The fact that the person who was
23 employed, used, *or* otherwise contained in the pornographic material was, at
24 that time, a minor is *prima facie* evidence that the defendant knew the
25 person to be a minor.

1 (c) Possession of child pornography under this Section is a Second
2 Degree Felony.

3 **§25.01.70. Dissemination of Child Pornography.**

4 (a) A person commits the offense of dissemination of child
5 pornography *if*, knowing *or* having reason to know its character and content,
6 the person:

7 (1) disseminates child pornography;

8 (2) reproduces child pornography with intent to disseminate;

9 (3) disseminates any book, magazine, periodical, film,
10 videotape, computer disk, electronically stored data, *or* any other
11 material that contains an image of child pornography;

12 (4) disseminates any pornographic material that employs,
13 uses, *or* otherwise contains a minor engaging in *or* assisting others to
14 engage in sexual conduct; or

15 (5) possesses ten (10) *or more* images of any form of child
16 pornography regardless of content, and the content of at least one (1)
17 image contains one (1) *or more* of the following:

18 (A) a minor who is younger than the age of fourteen

19 (14);

20 (B) sadomasochistic abuse of a minor;

21 (C) sexual penetration of a minor; or

22 (D) bestiality involving a minor.

23 (b) The fact that a person engaged in the conduct specified by this
24 Section is *prima facie* evidence that the defendant had knowledge of the
25 character and content of the material. The fact that the person who was
26 employed, used, *or* otherwise contained in the pornographic material was, at

1 that time, a minor is prima facie evidence that the defendant knew the
2 person to be a minor.

3 (c) Dissemination of child pornography under this Section is a
4 First Degree Felony.”

5 **Section 2. Codification of Public Law 29-07.** The Compiler of Laws
6 *shall* codify the Sections of Law enacted by Public Law 29-07 to Title 9 GCA:
7 Chapter 89 as if Public 29-07 was enacted subsequent to Public Law 29-30.

8 **Section 3. Changes to Chapter 89.** Subsequent to the Codification of
9 Public Law 29-07 as provided for by Section 2 of this Act, all references to “*Title*
10 9 GCA: Chapter 25” in Title 9 GCA: Chapter 89 *shall* be changed to “*Title 9*
11 GCA: Chapters 25 and 25.01”.