

## May 23, 2016; How Bill Targets “Revenge Porn”

Bill 11-33, recently introduced by Senator Judy Won Pat, reflects concern for the growing problem of people using the internet for “revenge pornography”. This is where sexually explicit photos are posted on the Internet for the purpose of embarrassing or harassing someone.

This isn’t the first time the Legislature has considered internet communications. Currently, Guam’s law prohibits anyone from using the internet to harass another person by contacting them without revealing their identity; or continuing to contact them after being told to stop; or sending obscene material to someone who doesn’t want it; or spreading false stories about others. Violators face a misdemeanor charge.

Guam also has a “sexting” law aimed specifically at minors. Those under 18 are forbidden to use a telecommunications device to knowingly or recklessly send or receive “a photograph, video, depiction or other material that shows himself or herself, or of another minor, in a state of nudity.” Violators can be prosecuted. Most will be diverted to an educational program that seeks to discourage the repeat of such behavior.

Arguably, our current law doesn’t address revenge pornography. Bill 311-33 seeks to fill this gap. The Bill is based on an Arizona law that has withstood legal challenges. This is important. The U.S. Supreme Court has a long history of zealously protecting speech, which includes photos and videos. However, the Court does recognize some limitations against speech that is obscene, defamatory, threatening, or perjurious, among other exceptions. Supporters of laws prohibiting revenge pornography are hopeful the Supreme Court will ultimately find this type of restrictive legislation permissible.

The misuse of internet communications should be an area of great concern and merits appropriate legislation. Much damage can, and has been done to victims from unwanted internet messaging and compromising photos. Unfortunately, many people don’t think about the consequences before pressing “send”.

As a lawyer, I am constantly amazed at how careless people are in sending messages and photos out into cyberspace. They seem to forget that their communications have no shelf-life and can frequently be located by a technical expert years after they were posted. I’ve been involved in a number of hearings where I’ve subpoenaed long forgotten texts and photos that were sent via the internet. Witnesses appeared dumbfounded when confronted by their hurtful words and compromising photos.

Our children are especially vulnerable, as both victims and perpetrators, to the malicious misuse of internet communications. Impulsiveness is a common trait of tweens and teenagers. In the heat of a moment, the temptation to press “send”

can be difficult to overcome. The consequences can be devastating. Unfortunately, most of our children are light-years ahead of their parents when it comes to electronic communications. This puts us at a great disadvantage when trying to monitor their internet usage.

There will be a public hearing on Bill 311-33 on Wednesday, May 25th at 11:00 a.m. This will give our community an opportunity to continue our dialogue on developing appropriate legislation to combat the misuse of electronic communications. Plan to attend and let your voice be heard.