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CH. 53 THE GUAM UNIFORM CIVIL REMEDIES FOR  
UNAUTHORIZED DISCLOSURE OF INTIMATE IMAGES ACT OF 2019

CHAPTER 53

THE GUAM UNIFORM CIVIL REMEDIES FOR UNAUTHORIZED  
DISCLOSURE OF INTIMATE IMAGES ACT OF 2019

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**§ 53101. Title.**

This Chapter *shall* be known as the “Guam Uniform Civil Remedies for Unauthorized Disclosure of Intimate Images Act of 2019.”

**§ 53102. Definitions.**

As used in this Chapter, the term:

(a) *child* means an unemancipated individual who is less than eighteen (18) years of age;

(b) *consent* means affirmative, conscious, and voluntary authorization by an individual with legal capacity to give authorization;

(c) *depicted individual* means an individual whose body is shown in whole or in part in an intimate image;

(d) *disclosure* means transfer, publication, or distribution to another person; and disclose has a corresponding meaning;

(e) *harm* means physical harm, economic harm, or emotional distress whether or not accompanied by physical or economic harm;

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(f) *identifiable* means recognizable by a person other than the depicted individual:

(1) from an intimate image itself; or

(2) from the intimate image and identifying characteristic displayed in connection with the intimate image;

(g) *identifying characteristic* means information that may be used to identify a depicted individual;

(h) *individual* means a human being.

(i) *intimate image* means a photograph, film, video recording, or other similar medium that shows:

(1) the uncovered genitals, pubic area, anus, or female post-pubescent nipple of a depicted individual; or

(2) the depicted individual engaging in or being subjected to sexual conduct.

(j) *parent* means an individual recognized as a parent under Guam law.

(k) *person* means an individual, estate, business or nonprofit entity, public corporation, government or governmental subdivision, agency or instrumentality, or other legal entity;

(l) *private means*:

(1) created or obtained under circumstances in which the depicted individual had a reasonable expectation of privacy; or

(2) made accessible through theft, bribery, extortion, fraud, false pretenses, voyeurism, or exceeding authorized access to an account, message, file, device, resource, or property;

(m) *sexual conduct* includes:

(1) masturbation;

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- (2) genital, anal, or oral sex;
- (3) sexual penetration of, or with, an object;
- (4) bestiality; or
- (5) the transfer of semen onto a depicted individual.

**§ 53103. Civil Action.**

(a) Except as otherwise provided in § 53104 of this Chapter, a depicted individual who is identifiable and who suffers harm from a person's intentional disclosure or threatened disclosure of an intimate image that was private without the depicted individual's consent has a cause of action against the person if the person knew or acted with reckless disregard for whether:

- (1) the depicted individual did not consent to the disclosure;
- (2) the intimate image was private; and
- (3) the depicted individual was identifiable.

(b) The following conduct by a depicted individual does not establish by itself that the individual consented to the disclosure of the intimate image which is the subject of the action or that the individual lacked a reasonable expectation of privacy:

- (1) consent to the creation of the image; or
- (2) previous consensual disclosure of the image.

(c) A depicted individual who does not consent to sexual conduct or the uncovering of the part of the body depicted in the intimate image of the individual retains a reasonable expectation of privacy even if the image was created when the individual was in a public place.

(d) This Section is not the exclusive remedy for an intentional disclosure or threatened disclosure of an intimate image, and a plaintiff may also bring any other available common law or statutory claims.

**§ 53104. Exceptions to Liability.**

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(a) A person is not liable under this Chapter if the person proves that disclosure of, or a threat to disclose, an intimate image was:

(1) made in good faith in:

- (A) law enforcement;
- (B) a legal proceeding; or
- (C) medical education or treatment; or

(2) made in good faith in the reporting or investigation of:

- (A) unlawful conduct;
- (B) unsolicited and unwelcome conduct; or
- (C) a matter of public concern or public interest;

or

(3) reasonably intended to assist the depicted individual.

(b) Subject to Subsection (c) of this Section, a defendant who is a parent, legal guardian, or individual with legal custody of a child is not liable under this Chapter for a disclosure or threatened disclosure of an intimate image, as defined in § 53102(i), of the child.

(c) If a defendant asserts an exception to liability under Subsection (b) of this Section, the exception does not apply if the plaintiff proves the disclosure was:

(1) prohibited by law other than this Subsection; or

(2) made for the purposes of sexual arousal, sexual gratification, humiliation, degradation, or monetary or commercial gain.

(d) Disclosure of, or a threat to disclose, an intimate image is not a matter of public concern or public interest solely because the depicted individual is a public figure.

**§ 53105. Plaintiff's Privacy.**

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In an action under this Chapter:

(a) a plaintiff may proceed using a pseudonym in place of the true name of the plaintiff;

(b) the court may exclude or redact from all pleadings and documents filed in the action other identifying characteristics of the plaintiff;

(c) a plaintiff to whom Subsection (a) or (b) of this Section applies *shall* file with the court and serve on the defendant a confidential information form that includes the excluded or redacted plaintiff's name and other identifying characteristics; and

(d) the court may make further orders as necessary to protect the identity and privacy of a plaintiff.

**§ 53106. Remedies.**

(a) In an action under this Chapter, a prevailing plaintiff may recover:

(1) the greater of:

(A) economic and noneconomic damages proximately caused by the defendant's disclosures or threatened disclosures, including damages for emotional distress whether or not accompanied by other damages; or

(B)(i) statutory damages not to exceed Ten Thousand Dollars (\$10,000) against each defendant found liable under this Chapter for all disclosures and threatened disclosures by the defendant of which the plaintiff knew or reasonably should have known when filing the action or which became known during the pendency of the action;

(ii) in determining the amount of statutory damages under this Subsection (a)(1)(B), consideration must be given to the age of the parties at the time of the disclosure or threatened

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disclosure, the number of disclosures or threatened disclosures made by the defendant, the breadth of distribution of the image by the defendant, and other exacerbating or mitigating factors;

(2) an amount equal to any monetary gain made by the defendant from disclosure of the intimate image; and

(3) punitive damages as allowed under Guam law other than this Chapter.

(b) In an action under this Chapter, the court may award a prevailing plaintiff:

(1) reasonable attorney fees and costs; and

(2) additional relief, including injunctive relief.

(c) This Chapter does not affect a right or remedy available under Guam law other than this Chapter.

**§ 53107. Statute of Limitations.**

(a) An action under § 53103(a) for:

(1) an unauthorized disclosure may not be brought later than four (4) years from the date the disclosure was discovered or should have been discovered with the exercise of reasonable diligence; and

(2) a threat to disclose may not be brought later than four (4) years from the date of the threat to disclose.

(b) Except as otherwise provided in Subsection (c) of this Section, this Section is subject to the tolling statutes of Guam.

(c) In an action under § 53103(a) by a depicted individual who was a minor on the date of the disclosure or threat to disclose, the time specified in Subsection (a) of this Section does not begin to run until the depicted individual attains the age of majority.

**§ 53108. Construction.**

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(a) This Chapter *shall* be construed to be consistent with the federal *Communications Decency Act of 1996*, 47 U.S.C. § 230

(b) This Chapter may not be construed to alter the Government Claims Act, 5 GCA Chapter 6.

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