

COMMITTEE ON HOMELAND SECURITY, JUSTICE
AND PUBLIC SAFETY

03/14/2024-REPORTED OUT TO THE FLOOR

02/13/2024-AMENDED AND REPORTED OUT TO THE COMMITTEE ON RULES AND JUDICIARY

BILL NO. 35-0182

Thirty-Fifth Legislature of the Virgin Islands

October 27, 2023

An Act amending title 14 of the Virgin Islands Code chapter 51 by designating the existing provisions as subchapter I and adding a subchapter II relating to the nonconsensual dissemination of sexually explicit images

PROPOSED BY: Senators Donna A. Frett-Gregory, Kenneth L. Gittens,
Angel L. Bolques, Jr., Alma Francis Heyliger,
Dwayne M. DeGraff and Milton E. Potter
Co-sponsor: Novelle E. Francis Jr.

1 *Be it enacted by the Legislature of the Virgin Islands:*

2 **SECTION 1.** Title 14 of the Virgin Islands Code is amended designating the existing
3 sections as subchapter I and adding a subchapter II that reads as follows:

4 **“Subchapter II. Nonconsensual Pornography or Revenge Pornography**

5 **§ 1031. Short Title**

6 This subchapter may be cited as “Revenge Porn Act”.

7 **§ 1032. Definitions**

8 As used in this subchapter chapter:

9 (1) “electronic communications device” means a computer, an internet web site or
10 page, a video recorder, a digital camera, a fax machine, a telephone, a cellular telephone, a
11 pager, or any other device that can produce an electronically generated image, message, or
12 signal.

1 (2) “Disseminate” means to post, email, text, distribute, transfer, transmit, circulate,
2 share, forward, exhibit, sell, give, provide, procure, manufacture, or publish on an electronic
3 communications device as defined in this subchapter.

4 (3) “Image” means a photograph, film, videotape, digital recording, or other depiction
5 or portrayal of an object, including a human body.

6 (4) “Intimate parts” means the fully unclothed, partially unclothed, or transparently
7 clothed genitals, pubic area, or anus, buttocks, or, if the person is female, a partially or fully
8 exposed nipple, including exposure through transparent clothing.

9 (5) “Sexual act” means sexual penetration, masturbation, sexual activity, actual or
10 simulated sexual intercourse, and sexual bestiality.

11 (6) “Simulated” means the explicit depiction of sexual conduct that creates the
12 appearance of actual sexual conduct and during which a person engaging in the conduct exhibits
13 any uncovered portion of the genitals, buttocks, or female nipple.

14 (7) “Sexual activity” means any:

15 (A) touching or fondling of another person or animal, either directly or through
16 clothing, of the sex organs, anus, or breasts for sexual gratification or arousal;

17 (B) any transfer or transmission of semen upon any part of the clothed or
18 unclothed body of another, for sexual gratification or arousal of the victim or another;

19 (C) an act of urination within a sexual context; or

20 (D) any bondage or fetter, sadism, masochism, or sadomasochism in any sexual
21 context.

22 (8) “Visual Depiction” means any photograph, developed or undeveloped film, video
23 picture, negative or slide, digital or computer-generated image or picture, whether made or
24 produced by electronic, mechanical or other means.

1 (9) “Sexual images” means images, photographs, videos, or other likenesses depicting
2 or simulating an intimate act or depicting any portion of a person's genitals, or of a woman's
3 breast below the top of the areola, that is either uncovered or visible through less-than-fully
4 opaque clothing, which images may reasonably be considered private, intimate, or
5 inappropriate for distribution or publication without that person's consent

6 **§ 1033. Non-consensual dissemination of private sexual images**

7 (a) A person commits non-consensual dissemination of private sexual images when the
8 person:

9 (1) purposely, and with the intent to harass, intimidate, threaten, coerce, or cause
10 harm to the emotional, financial, or physical welfare of the depicted person, disseminates
11 an image of a person:

12 (A) who is 18 years of age and older;

13 (B) who is identifiable from the image itself or information displayed in
14 connection with the image; and

15 (C) who is engaged in a sexual act or whose intimate parts are exposed, in
16 whole or in part;

17 (2) obtains the image when a reasonable person would know or understand that
18 the image was to remain private; and

19 (3) knows or should have known that the person in the image has not consented
20 to the dissemination of the images.

21 Consent to the recording of the visual image does not by itself constitute consent for the
22 disclosure or dissemination of the image.

23 (b) The statute of limitation for filing a criminal complaint for a violation of this
24 subchapter is two years from the date the victim becomes aware of the dissemination of the
25 images.

1 **§ 1034. Liability; Exceptions**

2 (a) The intentional dissemination of an image of another identifiable person who is
3 engaged in a sexual act or whose intimate parts are exposed is exempt from the provision of
4 this section when:

5 (1) the dissemination is made for the purpose of a criminal investigation that is
6 otherwise lawful;

7 (2) the dissemination is made for the purpose of, or in connection with, the
8 reporting of unlawful conduct;

9 (3) the images involved are voluntarily exposed in public or commercial settings;
10 or

11 (4) the dissemination serves a lawful public purpose or is done in compliance
12 with a subpoena or court order.

13 (b) This subchapter does not impose liability upon the following entities solely because
14 of content or information provided by another person:

15 (1) an interactive computer service, as defined in 47 U.S.C. § 230(f)(2);

16 (2) a wireless service provider; or

17 (3) a telecommunications network or broadband provider.

18 **§ 1035. Punishment**

19 (a) A person who is convicted for the first time for a violation of this subchapter is
20 guilty of a misdemeanor and is subject to a term of imprisonment of not more than one year, or
21 a fine of not more than \$5,000, or both.

22 (b) A person who is convicted a second or any additional time for a violation of this
23 subchapter, with the same or a different person, is guilty of a felony and is subject to a term of
24 imprisonment of not more than five years, or a fine of not more than \$10,000, or both.

1 (c) A person who has been convicted two or more times for a violation of this
2 subchapter is required to register as a sexual offender pursuant title 14 Virgin Islands Code,
3 chapter 86, section 1721, et seq.

4 **§ 1036. Civil Remedies**

5 A person whose private sexual images have been disseminated in violation of this
6 subchapter may bring a civil action against the person who disseminated the private sexual
7 images and is entitled to injunctive relief, the greater of \$10,000 or actual damages incurred
8 because of the dissemination of the private sexual images, exemplary damages, court fees and
9 reasonable attorney's fees and costs. The statute of limitation for filing a civil complaint for a
10 violation of this subchapter is two years from the date the victim becomes aware of the
11 dissemination of the images.

12 **§ 1037. Forfeiture**

13 (a) After an opportunity to be heard by the court, a person who has been found guilty
14 of committing the offense of non-consensual dissemination of private sexual material forfeits
15 the to the Government of the Virgin Islands:

16 (1) Any profits or proceeds and any property the person has acquired or
17 maintained that were obtained as a result of the non-consensual dissemination of the
18 private sexual images;

19 (2) Any interest in, securities of, claim against, or property or contractual right
20 of any kind affording a source of influence over any enterprise that the person has
21 established, operated, or controlled that was acquired or maintained because of the non-
22 consensual dissemination of the private sexual images; or

23 (3) Any property to include computer, cellular phone, cameras, used in
24 committing or facilitating the commission of the offense for which the person has been
25 convicted.

1 (b) Funds received as a result of a forfeiture proceeding must be remitted to the
2 Criminal Victims Compensation Fund.

3 **SECTION 2.** Title 16 Virgin Islands Code, chapter 2, section 91(b) is amended by
4 adding a paragraph (15) to read:

5 “(15) Revenge Porn.”

6 **BILL SUMMARY**

7 This bill makes it a criminal offense to disseminate private sexual images of a person
8 without that person’s consent. It also provides for the circumstances upon which the
9 dissemination of private sexual images is not a criminal offense, the punishment for violation
10 of the law, civil remedies for the victim, and for the forfeiture any profits, proceeds, or property
11 obtained from the dissemination of the private sexual images.

12 **BR23-0042/August 23, 2023/SLR**

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