I MINA'TRENTAI UNU NA LIHESLATURAN GUÅHAN
2011 (FIRST) Regular Session

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

This is to certify that **Bill No. 41-31 (COR), "AN ACT TO *AMEND* §§ 19.69 AND 19.70 OF CHAPTER 19, AND §61.20 OF CHAPTER 61; TO *ADD* A NEW § 61.20.1 TO CHAPTER 61, AND NEW §§ 28.90, 28.100 AND 28.101 TO CHAPTER 28, ALL OF TITLE 9, GUAM CODE ANNOTATED; AND TO *AMEND* §3112.1 OF ARTICLE 1, CHAPTER 3 OF TITLE 17, GUAM CODE ANNOTATED, RELATIVE TO BULLYING, CYBERBULLYING AND SEXTING",** was on the 24th day of February, 2011, duly and regularly passed.

Judith T. Won Pat, Ed.D.
Speaker

Attested:

Tina Rose Muña Barnes
Legislative Secretary

This Act was received by *I Maga'lahen Guåhan* this 25th day of Feb, 2011, at 7:14 o'clock P.M.

Assistant Staff Officer
Maga'lahi's Office

APPROVED:

Police Sgt I EJS

EDWARD J.B. CALVO
I Maga'lahen Guåhan

Date: _____

Public Law No. _____

I MINA'TRENTAI UNU NA LIHESLATURAN GUÅHAN
2011 (FIRST) Regular Session

Bill No. 41-31 (COR)
As amended on the Floor.

Introduced by: B. J.F. Cruz
T. R. Muña Barnes
Judith T. Won Pat, Ed.D.
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AN ACT TO *AMEND* §§ 19.69 AND 19.70 OF CHAPTER 19, AND §61.20 OF CHAPTER 61; TO *ADD* A NEW § 61.20.1 TO CHAPTER 61, AND NEW §§ 28.90, 28.100 AND 28.101 TO CHAPTER 28, ALL OF TITLE 9, GUAM CODE ANNOTATED; AND TO *AMEND* §3112.1 OF ARTICLE 1, CHAPTER 3 OF TITLE 17, GUAM CODE ANNOTATED, RELATIVE TO BULLYING, CYBERBULLYING AND SEXTING.

BE IT ENACTED BY THE PEOPLE GUAM:

Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan* finds that there is both a concern and alarm among families, parents, children, and our community about the growing contemporary problem of not only actual physical

assault, but also emotional harassment, intimidation, and mistreatment of weaker or vulnerable children or minors by others. This bullying is reported to be on the rise, and in this electronic, digital, or computer age it is occurring more commonly and frequently on the Internet and transmitted onto cellular phones and computers, which is now called "cyberbullying." *I Liheslaturan Guåhan* finds that bullying and cyberbullying as forms of harassment and stalking can be addressed by updating and amending our current related criminal laws.

I Liheslaturan Guåhan also finds that "sexting" has become a more evident problem within our juvenile community as a result of the easy accessibility of electronic devices among our youth community. The teenage practices of sexting and posting sexual images online are nationwide problems that have perplexed parents, school administrators, and law enforcement officials. Prosecutors in several states have charged teenagers who have engaged in these behaviors with criminal offenses, including distribution of child pornography. Sexting, which is a new term of art, refers to "the use of a cell phone to send sexually suggestive texts or emails with nude or nearly nude photos." Sexting has been on the increase in our community, and has not only resulted in problems in and of itself, but it has been linked to other problems and crimes within our youth community, such as bullying, cyberbullying, assault, harassment, and even criminal sexual conduct. Like the rest of the nation, Guam has had to charge juveniles with other more serious criminal offenses, including distribution of child pornography. The *National Campaign to Prevent Teen and Unplanned Pregnancy* conducted research that shows the following statistics with respect to sexting: thirty-nine percent (39%) of all teens have sent sexually suggestive texts; forty-eight percent (48%) of teens say they have received such messages; seventy-one percent (71%) of teen girls and sixty-seven percent (67%) of teen boys who have sent or posted sexually suggestive content say they have sent or posted this content to a boyfriend

or girlfriend; twenty-one percent (21%) of teen girls and thirty-nine percent (39%) of teen boys say they have sent such content to someone they wanted to date or "hook up" with; thirty-eight percent (38%) of teens say they have had sexually suggestive text messages, originally meant for someone else, shared with them; and twenty-five percent (25%) of teen girls and thirty-three percent (33%) of teen boys say they have had semi-nude or nude images, originally meant for someone else, shared with them. In an attempt to battle this growing problem, *I Liheslaturan Guåhan* enacts this legislation addressing two (2) different forms of sexting among our youth: Illegal Use of a Computer or Telecommunications Device to Disseminate Prohibited Materials Involving a Minor.

I Liheslaturan Guåhan further finds that there is a need to create a diversionary program for first-time offending juveniles who can be charged for sexting or posting of sexual images via electronic devices as a preventive measure and means to educate juveniles about the severity of this type of behavior, and the possible consequences for such a crime. *I Liheslaturan Guåhan* wishes to establish an educational program that is intended to be an alternative to prosecution for juveniles who are charged with a criminal offense for posting sexually suggestive or sexually explicit photographs, usually on the Internet. The educational program would include juveniles who engage in the behavior commonly known as sexting, in which sexually suggestive or explicit pictures are transmitted via cell phones.

The Act would require the Office of the Attorney General, Family Division, or whichever designated division of the Office of the Attorney General that addresses matters involving juveniles in the community of Guam, to incorporate such a diversionary program under its current services. Such diversionary program would be similar to or incorporated under the current Pre-Adjudicatory Diversionary Program that the Office of the Attorney General currently utilizes. The program would require that the Office of the Attorney General develop an

educational program for juveniles who commit an eligible offense as defined in this Act. The Office of the Attorney General *shall* then consult with the Judiciary of Guam, Juvenile Probation Division, to discuss and implement such educational program, to include the same or similar conditions as the current Pre-Adjudicatory Diversionary Program between the Office of the Attorney General and Judiciary of Guam, Juvenile Probation Division. The Office of the Attorney General *shall* be the sole agency responsible for the determination as to whether a minor may be admitted into the diversionary program. A juvenile who successfully completes the program would have the opportunity to avoid prosecution, and any records relating to such an offense, upon completion of the program, would be dismissed and expunged.

Admission to the program would be limited to juveniles who: (1) have *not* previously been adjudicated delinquent for or convicted of a criminal offense; (2) were *not* aware that their actions could constitute, and did *not* have the intent to commit, a criminal offense; (3) may be harmed by the imposition of criminal sanctions; and (4) would likely be deterred from engaging in similar conduct in the future by completing the program.

I Liheslaturan Guåhan finds that such educational program will be beneficial to the community of Guam, and more so in the best interests of the youth in our community, as such program is designed to provide information concerning: the legal consequences of and penalties for sexting or posting sexual pictures online, including the applicable local and federal statutes; the non-legal consequences of sexting or posting such pictures, including, but *not* limited to, the effect on relationships, loss of educational and employment opportunities, and being barred or removed from school programs and extracurricular activities; how the unique characteristics of cyberspace and the Internet can produce long-term and unforeseen consequences for sexting and posting such photographs; and the

connection between bullying and cyber-bullying and juveniles sexting or posting sexual images.

I Liheslaturan Guåhan further finds that the need to impose upon retail stores which sell cellular telephone equipment or cellular telephone equipment service contracts, the responsibility of providing informational brochures about sexting to customers who purchase such equipment or contracts, is vital in the prevention and education of sexting. The need for active participation from these particular retail stores in providing such informational brochures will ensure that purchasers of these devices are educated up front about the illegal use of these devices and the consequences of such illegal actions. This Act supplements Guam's consumer fraud act making it an unlawful practice for any retail mercantile establishment to sell cellular telephone equipment or to sell or renew cellular telephone service contracts, *unless* the store encloses an informational brochure with such equipment or contracts, that describes the dangers of sexting, the criminal penalties that may be associated with sexting, and the names, addresses, and telephone numbers of qualified organizations that can provide information to the customer concerning responsible cellular telephone usage.

This Act directs the Office of the Attorney General, Consumer Protection Division, to notify stores which sell cellular telephone equipment and cellular telephone equipment service contracts about the Act's requirements by advertising it in Guam local newspapers. In addition, this Act requires that *I Liheslaturan Guåhan* provide funding to the Office of the Attorney General to advertise such information on a yearly basis, as well as adequate funding for the Office of the Attorney General to prepare and distribute information brochures about sexting to stores throughout Guam for distribution to customers who purchase such equipment or contracts from the stores.

Section 2. §19.69 of Chapter 19, Title 9, Guam Code Annotated, is hereby *amended* to read:

"**§19.69. Definitions.**

Unless otherwise indicated, as used in § 19.70:

(a) *Harasses* or *harassment* means a knowing and willful course of conduct, whether physical, verbal, written, electronic, telephonic, via or by use of a computer, computer network, computer system, telephone network, data network, text message, instant message, or otherwise, directed at a specific person which alarms, annoys, or distresses the person, and which serves no legitimate purpose. Such course of conduct must be of a nature to cause a reasonable person to suffer substantial emotional distress, and must cause substantial emotional distress.

(b) *Course of conduct* means a pattern of conduct composed of a series of acts over a period of time, however short, evidencing continuity of purpose. Constitutionally and statutorily protected activity, including, but *not* limited to, picketing as a result of a labor dispute, is *not* included in this definition.

(c) *Credible threat* means any threat, physical or verbal, overtly or subtly manifested, constituting a threat with the intent and apparent ability to carry out the threat with the person who is the target of the threat to reasonably fear for his or her safety or the safety of his or her immediate family. Such threatening advance must be against the life of, or a threat to cause bodily injury to, the person threatened or to a member of his or her immediate family.

(d) *Computer* means any electronic, magnetic, optical, electrochemical, *or* other high-speed data processing device performing logical, arithmetic, *or* storage functions, and includes all computer

equipment connected *or* related to such a device in a computer system *or* computer network, but *shall not* include an automated typewriter or typesetter, a portable hand-held calculator, *or* other similar device.

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

(f) *Computer system* means a set of interconnected computer equipment intended to operate as a cohesive system."

Section 3. §19.70 of Chapter 19, Title 9, Guam Code Annotated, is hereby *amended* to read:

"**§19.70. Stalking.** (a) A person is guilty of simple stalking if he or she willfully, maliciously, and repeatedly, follows or harasses another person or who makes a credible threat with intent to place that person or a member of his or her immediate family in fear of death or bodily injury.

(b) A person is guilty of advanced stalking if he or she violates Subsection (a) of this Section when there is a temporary restraining order or an injunction or both or any other court order in effect prohibiting the behavior described in that Subsection against the same party.

(c) A person is guilty of advanced stalking if he or she violates Subsection (a) of this Section a second or subsequent time against the same victim, within seven (7) years of a prior conviction under that Subsection, and involving an harassment or a credible threat of violence, as defined in §19.69 of this Chapter.

(d) Simple stalking is a felony of the third degree.

(e) Advanced stalking is a felony of the second degree.

(f) This Section *shall not* apply to conduct which occurs during labor picketing."

Section 4. §61.20 of Chapter 61, Title 9, Guam Code Annotated, is hereby *amended* to read:

"**§61.20 Harassment; Defined & Punished.** A person commits a petty misdemeanor if, with intent to harass another, he:

(a) makes, or causes to be made, a communication anonymously or at extremely inconvenient hours, or in offensively coarse language, or any other manner likely to cause annoyance or alarm;

(b) subjects another to striking, kicking, shoving or other offensive touching, or threatens to do so; or

(c) engages in any other course of alarming conduct or of repeatedly committed acts which alarm or seriously annoy such other person serving no legitimate purpose of the defendant.

(d) Every person who with intent to annoy, telephones, telefaxes, or communicates by use of any telephone network, data network, text message, instant message, computer, computer network, or computer system with another person and addresses to or about such other person any obscene language is guilty of a misdemeanor.

(e) Every person who makes a telephone call, telefax transmission, or any transmission by use of a telephone network, data network, text message, instant message, computer, computer network, or computer system with intent to annoy and without disclosing his true identity to the person answering the telephone or receiving the telefax transmission or transmission received from any telephone network, data network, text message, instant message, computer, computer network, or computer system, whether or not conversation or return transmission ensues from making the telephone call or the transmission, is guilty of a misdemeanor.

(f) Any offense committed by use of a telephone, telefax machine, or any telephone network, data network, text message, instant message, computer, computer network, or computer system as set out in this Section may be deemed to have been committed at either the place at which the telephone calls, telefax transmissions, or any transmission by use of a telephone network, data network, text message, instant message, computer, computer network, or computer system were made or received. In the event that a customer of a telephone service provider, wireless service provider, or an internet service provider receives harassing telephone calls or transmissions received via or by use of a telephone network, data network, text message, instant message, computer, computer network, or computer system, such customer may file an injunction complaint under the name of John Doe, although the telephone service provider may release the name, address, and telephone number of the plaintiff to the Superior Court of Guam. The telephone service provider, wireless service provider, or an internet service provider *shall* disconnect all telephone services or computer or wireless services to any subscriber who has violated the provisions of this Section *more than* one (1) time.

(g) Subsections (d) or (e) of this Section are violated when the person acting with intent to annoy makes a telephone call, telefax transmission, or any transmission by use of a telephone network, data network, text message, instant message, computer, computer network, or computer system requesting a return call or return transmission and performs the acts prohibited under such Subsections upon receiving the return call or transmission."

Section 5. A new §61.20.1 is hereby *added* to Chapter 61 of Title 9, Guam Code Annotated, to read as follows:

"§61.20.1. Definitions.

Unless otherwise indicated, as used in §61.20:

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

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

(c) *Computer system* means a set of interconnected computer equipment intended to operate as a cohesive system."

Section 6. A new §28.90 is hereby *added* to Article 2, Chapter 28 of Title 9, Guam Code Annotated, to read as follows:

"§28.90. Obscene, Anonymous, Harassing and Threatening Communications by Computer; Defined and Punished.

(a) It is unlawful for any person, with the intent to harass or abuse another person, to use a computer to:

(1) make contact via the internet with another without disclosing his or her identity with the intent to harass or abuse;

(2) make contact via the internet with a person after being requested by the person to desist from contacting them;

(3) threaten via the internet to commit a crime against any person or property; or cause obscene material to be delivered or transmitted via the internet to a specific person after being requested to desist from sending such material; or

(4) publish via the internet a webpage or posting on a newsgroup untrue statements about another person which are false and designed to entice or encourage other people to ridicule or perpetuate the untruth about that person.

For purposes of this Article and Sections therein, "obscene material" means material that:

(A) An average person, applying contemporary adult community standards, would find, taken as a whole, appeals to the prurient interest, is intended to appeal to the prurient interest, or is pandered to a prurient interest;

(B) An average person, applying contemporary adult community standards, would find, depicts or describes, in a patently offensive way, sexually explicit conduct consisting of an ultimate sexual act, normal or perverted, actual or simulated, an excretory function, masturbation, lewd exhibition of the genitals or sadomasochistic sexual abuse; and

(C) A reasonable person would find, taken as a whole, lacks literary, artistic, political or scientific value.

(b) It is unlawful for any person to knowingly permit a computer under his or her control to be used for any purpose prohibited by this Section.

(c) Any offense committed under this Section may be determined to have occurred at the place at which the contact originated or the place at which the contact was received or intended to be received.

(d) Any person who violates a provision of this Section is 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."

Section 7. A new §28.100 is hereby *added* to Article 2, Chapter 28 of Title 9, Guam Code Annotated, to read as follows:

"**§28.100. Illegal Use of a Computer or Telecommunications Device to Disseminate Prohibited Materials Involving a Minor- Sexting; Crime Defined and Punished.**

(a) A minor is guilty of an offense of Illegal Use of a Computer Telecommunications Device Involving a Minor, otherwise known as Sexting, if the minor, by use of a computer or any telecommunications device, recklessly or knowingly creates, receives, exchanges, sends, disseminates, transmits or possesses a photograph, video, depiction or other material that shows himself or herself, or of another minor, in a state of nudity.

(b) It is *no* defense to a charge under this Section that the minor creates, receives, exchanges, sends, or possesses a photograph, video, or other material that shows themselves in a state of nudity.

(c) Applicability. This Section *shall not* apply to the use of a computer or a telecommunications device to transmit or distribute a photograph or other depiction involving sexual intercourse, deviate sexual intercourse, sadism, masochism or masturbation. This Section *does not* prohibit a person guilty under this Section to be charged with other chargeable criminal sex offenses under Guam law.

(d) An offense under this Section constitutes a "status offense". Any minor found to commit an offense under this Section *shall* be found guilty of illegal use of a telecommunications device involving a minor in a

state of nudity, a delinquent act that would be a misdemeanor if it could be committed as an adult.

(e) A minor who violates this Section is guilty of a separate offense for each separate photograph, video, or other material that shows a minor in a state of nudity which is created, received, exchanged, sent, or possessed.

(f) Any minor who is convicted of a violation of this Section *shall* be ordered in addition to the sentence ordered by the Court, as part of his or her sentence, to participate in the educational program similar to that discussed under Subsection (g) of this Section.

(g) A juvenile or minor who commits the offense of Illegal Use of a Computer or Telecommunications Device to Disseminate Prohibited Materials Involving a Minor- Sexting, may be eligible for a diversionary program.

(1) As used herein, 'eligible offense' means an offense chargeable under this Section where:

(A) the facts of the case involve the creation, exhibition or distribution without malicious intent of a photograph depicting nudity as defined in that section through the use of a telecommunications device or a computer; and

(B) the creator and subject of the photograph are juveniles or were juveniles at the time of its making.

(2) The Office of the Attorney General, Family Division, or whichever designated division of the Office of the Attorney General that addresses matters involving juveniles in the community of Guam, will incorporate such a diversionary program under its current services. Such diversionary program would be similar to or incorporated under the current Pre-Adjudicatory Diversionary

Program that the Office of the Attorney General currently utilizes. The program would require the Office of the Attorney General to develop an educational program for juveniles who commit an eligible offense as defined in this Act. The Office of the Attorney General *shall* then consult with the Judiciary of Guam, Juvenile Probation Division, to discuss and implement such educational program, to include the same or similar conditions as the current Pre-Adjudicatory Diversionary Program in place between the Office of the Attorney General and Judiciary of Guam, Juvenile Probation Office. The Office of the Attorney General *shall* be the sole agency responsible for the determination as to whether a minor may be admitted into the diversionary program. A juvenile who successfully completes the program would have the opportunity to avoid prosecution, and any records relating to such an offense, upon completion of the program, would be dismissed and expunged.

(3) Admission to the program *shall be limited* to juveniles who:

(A) have *not* previously been adjudicated delinquent for or convicted of a criminal offense under Title 9 of the Guam Code Annotated that constitutes a third degree felony or greater;

(B) were *not* aware that their actions could constitute and did *not* have the intent to commit a criminal offense;

(C) *may* be harmed by the imposition of criminal sanctions; and

(D) would likely be deterred from engaging in similar conduct in the future by completing the program.

(4) The educational program *shall* provide information concerning:

(A) the legal consequences of and penalties for sharing sexually suggestive or explicit materials, including applicable local and federal statutes;

(B) the non-legal consequences of sharing sexually suggestive or explicit materials including, but *not* limited to, the effect on relationships, loss of educational and employment opportunities, and being barred or removed from school programs and extracurricular activities;

(C) how the unique characteristics of cyberspace and the Internet, including searchability, replicability, and an infinite audience, can produce long-term and unforeseen consequences for sharing sexually suggestive or explicit materials; and

(D) the connection between bullying and cyberbullying and juveniles sharing sexually suggestive or explicit materials.

(5) The Attorney General *may* promulgate guidelines to effectuate the provisions of this Section."

Section 8. A new §28.101 is hereby *added* to Article 2, Chapter 28 of Title 9, Guam Code Annotated, to read as follows:

"**§28.101. Illegal Use of a Computer or Telecommunications Device to Disseminate Prohibited Materials Involving a Minor- Sexting; Mandatory Distribution of Information Brochure about Sexting by Retail Stores Who Sell Cellular Telephone Equipment or Cellular Telephone Equipment Service Contracts.**

(a) Definitions. As used in this Section:

(1) *Cellular telephone equipment* or *equipment* means a wireless telephone handset used in conjunction with wireless telephone service.

(2) *Wireless telephone service* means commercial mobile radio service, as defined in Subsection (d) of Section 332 of the Communications Act of 1934 (47 U.S.C. s.332).

(3) *Sexting* is defined in §28.100(a) of Title 9, Guam Code Annotated.

(4) *Store or other retail mercantile establishment* or *store* means a place where merchandise is displayed, held, stored or sold or offered to the public for sale on Guam.

(b) It *shall* be an unlawful practice for any store or other retail mercantile establishment to sell cellular telephone equipment to an individual, or to sell a contract for cellular telephone equipment service to an individual, or to renew a contract for cellular telephone equipment service with an individual, *unless* the store encloses an informational brochure with such equipment or contract that informs the individual about the dangers of the practice known as sexting.

(1) The informational brochure required pursuant to this Subsection (b) *shall* include, but *not* be limited to, an explanation of the types of criminal penalties that may be imposed on an individual who engages in sexting, as well as a list of the names, telephone numbers, and addresses of agencies qualified and available to answer questions related to sexting, such as the Office of the Attorney General, Consumer Protection Division, or any other government or nonprofit organizations that is dedicated to educating communities

about safety and self-responsibility when using cellular telephone equipment.

(2) The Office of the Attorney General, Consumer Protection Division, the Guam Police Department, and the Department of Revenue and Taxation *shall* notify all stores that sell cellular telephone equipment or cellular telephone equipment service contracts, of the requirements of this Act by advertising in local newspapers of general circulation on Guam, and *shall* prepare an information brochure on sexting and make copies available to all such stores.

(3) The Office of the Attorney General *shall* annually report to *I Liheslatura* on the effectiveness of the brochure preparation and distribution required by this Subsection.

(c) The owners of any store or other retail mercantile establishment which violates Subsection (b) *shall* be subject to a penalty *not to exceed* One Thousand Dollars ($1,000.00) per each violation, and if applicable be subject to the sentence imposed for corporations under §80.16 of Title 9 G.C.A."

Section 9. §3112.1 of Article 1, Chapter 3 of Title 17, Guam Code Annotated, is hereby *amended* to read:

"**§3112.1. Same: Policy Against Bullying.**

(a) As used in this Section:

(1) 'at school' means in a classroom, elsewhere on or within school fences or at a school-sponsored activity or event whether or not it is held on school premises.

(2) 'harassment, intimidation, or bullying' means any gesture or written, verbal, or physical act that a reasonable

person under the circumstances should know will have the effect of harming a pupil or damaging his or her property or placing a pupil in reasonable fear of harm to his or her person or damage to his or her property, or that has the effect of insulting or demeaning any pupil or group of pupils in such a way as to disrupt or interfere with the school's educational mission or the education of any pupil. 'Harassment, intimidation, or bullying' includes, but is *not* limited to, such a gesture or written, verbal, or physical act that is reasonably perceived as being motivated by a pupil's religion, race, color, national origin, age, sex, sexual orientation, disability, height, weight, or socioeconomic status, or by any other distinguishing characteristic.

(3) "Cyberbullying" means the use of any electronic communication device to harass, intimidate or bully as defined in the above Subsection (2).

(b) The Guam Education Board (Board) *shall* adopt a policy prohibiting "harassment, intimidation, or bullying" and "cyberbullying" at school. The content of the policy *shall* be determined by the Board but *shall* contain *at least* the components in Subsection (c). The policy *shall* be adopted through a process that includes representation of parents or guardians, pupils, teachers, staff, administrators, volunteers, and community representatives.

(c) The policy *shall* include *at least* each of the following components:

(1) A statement prohibiting "harassment, intimidation, or bullying" and "cyberbullying" of a pupil.

(2) A definition of "harassment, intimidation, or bullying" and "cyberbullying" that includes at least the acts described in the definition in this Section.

(3) A description of the type of behavior expected from each pupil.

(4) Consequences and appropriate remedial action for a person who commits an act of "harassment, intimidation, or bullying" and "cyberbullying".

(5) A procedure for reporting an act of "harassment, intimidation, or bullying" and "cyberbullying", including a provision that permits a person to report an act of "harassment, intimidation, or bullying" and "cyberbullying" anonymously. However, this Subsection *shall not* be construed to permit formal disciplinary action solely on the basis of an anonymous report.

(6) A procedure for prompt investigation of reports of violations and complaints, identifying either the principal or the principal's designee as the person responsible for the investigation.

(7) The range of ways in which a school will respond once an incident of "harassment, intimidation, or bullying" and "cyberbullying" is identified.

(8) A statement that prohibits reprisal or retaliation against any person who reports an act of "harassment, intimidation, or bullying" and "cyberbullying", and the consequences and appropriate remedial action for a person who engages in that type of reprisal or retaliation.

(9) Consequences and appropriate remedial action for a person found to have falsely accused another as a means of retaliation or as a means of "harassment, intimidation, or bullying" and "cyberbullying".

(10) A statement of how the policy is to be publicized, including notice that the policy applies to participation in school-sponsored activities.

(11) A school employee, pupil, or volunteer *shall not* engage in reprisal, retaliation, or false accusation against a victim, witness, or one with reliable information about an act of "harassment, intimidation, or bullying" and "cyberbullying".

(12) A school employee or volunteer who has witnessed, or has reliable information that a pupil has been subjected to "harassment, intimidation, or bullying" and "cyberbullying", whether verbal or physical, *shall* report the incident to the appropriate school official designated by the Board policy.

(13) A school employee who promptly reports an incident of "harassment, intimidation, or bullying" and "cyberbullying" to the appropriate school official designated by the Board policy, and who makes this report in compliance with the procedures in the policy prohibiting "harassment, intimidation, or bullying" and "cyberbullying" is *not* liable for damages arising from any failure to remedy the reported incident.

(d) The Board *shall* adopt the policy under this Section and transmit a copy of its policy to the Superintendent of Education by June 30, 2011.

(e) The Board *shall* ensure that notice of the policy under this Section is included in any publication that sets forth the comprehensive rules, procedures, and standards of conduct for all schools, and in its pupil handbooks.

(f) Public schools are required to form "bullying" and "cyberbullying" prevention task forces; implement prevention, intervention, and remediation programs; and explore other initiatives that involve the school community, law enforcement, assistance organizations, and community members. School community is defined as parents or guardians, pupils, teachers, staff, and administrators.

(g) Each school *shall* do all of the following:

(1) provide training on the school's "harassment, intimidation, or bullying" and "cyberbullying" policies to the school community and volunteers who have significant contact with pupils; and

(2) develop a process for discussing the "harassment, intimidation, or bullying" and "cyberbullying" policy with pupils as part of the curriculum.

(h) A school *shall* incorporate information regarding its policy against "harassment, intimidation, or bullying" and "cyberbullying" into its employee training program.

(i) This Section does *not* prevent a victim from seeking redress under any other available law, either civil or criminal. This Section does *not* create or alter any tort liability.

(j) The Board *shall* establish rules for appropriate disciplinary action for the Department of Education personnel who do *not* comply with the policy prohibiting "harassment, intimidation, or bullying" and "cyberbullying".

(k) "Harassment, Intimidation, or Bullying" and "Cyberbullying" are CRIMINAL IN NATURE and any of these actions can constitute a criminal offense that is chargeable under Guam law."

Section 10. Severability. *If* any provision of this law or its application to any person or circumstance is found to be invalid or contrary to Law, such invalidity *shall not* affect other provisions or applications of this law which can be given effect without the invalid provisions or application, and to this end the provisions of this Law are severable.

Section 11. Effective Date. This Act *shall* be effective upon enactment.