

**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:** Senator Donna A. Frett-Gregory

---

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

1 pager, or any other device that can produce an electronically generated image, message, or  
2 signal.

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

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

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

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

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

16 (7) “Sexual activity” means any:

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

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

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

22 (D) any bondage or fetter, sadism, masochism, or sadomasochism in any sexual  
23 context.

1 (8) "Visual Depiction" means any photograph, developed or undeveloped film, video  
2 picture, negative or slide, digital or computer-generated image or picture, whether made or  
3 produced by electronic, mechanical or other means.

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

9 **§ 1033. Non-consensual dissemination of private sexual images**

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

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

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

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

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

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

22 (3) knows or should have known that the person in the image has not consented  
23 to the dissemination of the 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 involve voluntarily exposed in public or commercial settings; or

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

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

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

15 (2) a wireless service provider; or

16 (3) a telecommunications network or broadband provider.

17 **§ 1035. Punishment**

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

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

24 **§ 1036. Civil Remedies**

1 A person whose private sexual images have been disseminated in violation of this  
2 subchapter may bring a civil action against the person who dissemination the private sexual  
3 images and is entitled to injunctive relief, the greater of \$10,000 or actual damages incurred  
4 because of the dissemination of the private sexual images, exemplary damages, court fees and  
5 reasonable attorney's fees and costs.

6 **§ 1037. Forfeiture**

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

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

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

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

20 **BILL SUMMARY**

21 This bill makes it a criminal offense to disseminate private sexual images of a person  
22 without that person's consent. It also provides for the circumstances upon which the  
23 dissemination of private sexual images is not a criminal offense, the punishment for violation

- 1 of the law, civil remedies for the victim, and for the forfeiture any profits, proceeds, or property
- 2 obtained from the dissemination of the private sexual images.

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