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California outlaws 'revenge porn.' Not everyone thinks that's a good idea

'Revenge porn' violators face fines up to \$1,000 and six months in jail. But the controversy continues over the balance between constitutionally protected speech and legitimate protections against criminal behavior.



Gloria Goodale 2 hours ago

California's governor has signed into law a bill criminalizing actions that more than a few people may need explained to them.

The bill outlaws "revenge porn," or the posting of nude images online with the intention of inflicting serious emotional distress or harm.

"Too many have had their lives upended because of an action of another that they trusted," the bill's sponsor, Republican state Sen. Anthony Cannella, said in a statement. "Until now, there was no tool for law enforcement to protect victims."

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Violators are subject to fines up to \$1,000 and six months in jail.

But even as the ink dries, the controversy continues over the fine balance between constitutionally protected speech and legitimate protections against criminal behavior.

"People's rights to disseminate images is a [First Amendment](#) protected right," points out Louis Virelli, a [Stetson University](#) law professor who specializes in constitutional issues. "That right is always being balanced against the harm that can be done in the form of slander and other offenses," he adds.

The very term "revenge porn" is a creation of the modern digital age. It was coined to describe what happens when a relationship ends badly and one party has possession of nude digital images of their former partner that can be distributed to the entire globe with a few keystrokes.

What were once images snapped and viewed privately, often with the now-ubiquitous cell phone, are shared online at multiple sites without the subject's



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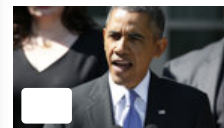


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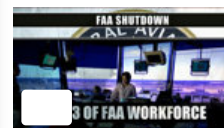
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knowledge or permission.

Some websites devoted to revenge porn have sprung up, charging large sums of money to have the images taken down. However, as anyone who has accidentally posted personal photos or information they later regret knows, this is largely futile in an age where digital images can persist indefinitely far beyond the original site where they were posted.

Those whose lives have been impacted by revenge porn welcomed the new law.

"I want to thank Senator Cannella for his leadership in getting this bill signed into law," said victims' rights advocate Dr. Charlotte Laws in a statement on the California senator's website.

After her daughter became a victim of revenge porn, in which her nude image was displayed along with personal information such as her home address and workplace, she had to change her address and job and faced serious emotional trauma.

"I am thrilled to see California taking a leadership role in protecting victims of revenge porn," Dr. Laws added.

The [ACLU](#) opposed early versions of the law, but dropped its opposition once narrower language requiring an intentional desire to harm another person was included. Still other critics of the law suggest that this is government over-reaching.

"What are they going to do next – fine people for breaking each others' hearts?" says [Beverly Hills](#) psychiatrist Carole Lieberman via e-mail.

Of course, she adds, "it's 'not nice' to post naked photos of one's ex on the Internet, and the naked ex can file a lawsuit as their remedy."

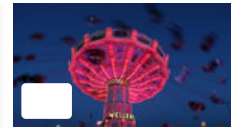
But as a professional who deals with mental health issues, Dr. Lieberman suggests that the consequences are off-base. "Whoever thought up the punishment for breaking this new law doesn't have a clue about relationships," she says.

"A 6-month jail sentence is way too harsh and a \$1,000 fine is way too lenient. Many scorned lovers would gladly pay \$1,000 to get revenge on the ex who broke their heart," she says, adding that prevention is the best cure for this problem. "Think twice about sexting and about letting your lover take photos of you naked in the first place."

Others who deal with the litanies of relationships gone bad say this is a good first start in the effort to tackle new problems arising from new technologies.

"Look out for judges having to field revenge porn accusations that will show up in custody cases," says online advice columnist April Masini. "Divorce is one of the nastier break-ups couples go through, and while children in custody cases resulting from failed marriages and relationships have become the pawns for these battles, the revenge porn law is going to take some of the pressure off the custody cases and put it back on the adults," she adds.

Only one other state has laws that address this behavior. In [New Jersey](#),



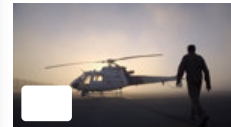
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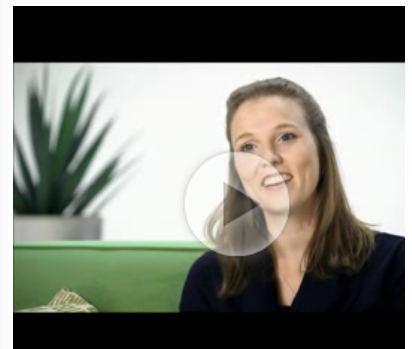


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offenders may face up to five years in prison.

California's new legislation is "an attempt to keep pace with changing technology and the emotional and other harms that can result from perceived abuse of modern developments in technology," adds [Kevin Johnson](#), Dean of the [UC Davis Law School](#).

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