

RESOLUTION OF THE
NAVAJO NATION COUNCIL

21ST NAVAJO NATION COUNCIL - Fourth Year 2010

AN ACT

RELATING TO PUBLIC SAFETY; ENACTING THE NAVAJO NATION INTERNET
SEX OFFENSES ACT OF 2010 AND AMENDING TITLE 17 NAVAJO NATION
CODE, SUBCHAPTER 15 SEXUAL OFFENSES, 17 N.N.C. §§ 440, 445 - 447

BE IT ENACTED:

Section One. Enactment

The Navajo Nation Council hereby enacts the Navajo Nation Internet Sex Offenses Act of 2010.

Section Two. Purpose

The purpose of the Navajo Nation Internet Sex Offenses Act of 2010 is to ensure the safety of children while online and protect them from sexual predators who anonymously prey upon children using the Internet or other electronic means of communication with the intent to harm them. These laws will also close a gap where offenders may use intrastate means to carry out predatory communications and avoid prosecution. Convicted offenders will also be subject to the Navajo Nation Sex Offender Registration and Notification Act as amended.

Section Three. Amending Title 17 of the Navajo Nation Code

The Navajo Nation hereby amends the Navajo Nation Code, Title 17, as follows:

Title 17. Navajo Nation Code
Chapter 3. Offenses
Subchapter 15. Sexual Offenses
* * *

§440. Definitions

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A. "Electronic communication device" means a computer, video recorder, digital camera, fax machine, telephone, wireless mobile telephone, pager, audio equipment or any other device that can produce an electronically generated image, message or signal

B. "Minor" means the same as defined under 17 N.N.C. § 400(C). A minor who commits this offense under this Act shall be referred to the Family Court for resolution pursuant to the Navajo Nation Children's Code.
[subsequent sections renumbered]

§ 445. Internet sexual exploitation of a minor

A. Offense. A person commits Internet sexual exploitation of a minor if a person, knowingly importunes, invites, or entices the minor through communication via a computer network or system to:

1. Expose or touch the minor's own or another person's intimate parts while communicating with the minor via a computer network or system; or

2. Observe the minor's intimate parts while communicating with the minor via a computer network or system.

B. Jurisdiction. For purposes of determining jurisdiction, Internet sexual exploitation of a minor is committed in the Navajo Nation if an electronic communication device transmission either originates or is received in the Navajo Nation.

C. Defense. It shall not be an affirmative defense to this section that the minor was actually a law enforcement officer posing as a minor.

D. Sentence. Any person found guilty of violating this Section shall be sentenced to imprisonment for a term not to exceed 365 days or be ordered to pay a fine not to exceed five thousand dollars (\$5,000.00), or both, except that civil penalties pursuant to 17 N.N.C. § 204 (D) shall be imposed if the violator is a non-Indian.

§ 446. Luring a minor by electronic communication device

A. Offense. A person commits luring a minor by electronic communication device when the person knowingly uses or attempts to use the Internet, wireless mobile telephone or other electronic communication device to:

1. Initiate contact with a minor or a person the actor believes to be a minor; and

2. Subsequent to the action under Subsection A(1), by any electronic or written means, solicits, seduces, lures, or entices, or attempts to solicit, seduce, lure, or entice the minor or a person the actor believes to be the minor to engage in any sexual activity involving physical contact between the perpetrator and the minor.

B. Jurisdiction. For purposes of determining jurisdiction, luring a minor by electronic communication device is committed in the Navajo Nation if an electronic communication device transmission either originates or is received in the Navajo Nation.

C. Defense. It is not a defense to the crime of enticement of a minor under Subsection A or an attempt to commit this offense, that a law enforcement officer or an undercover operative who is working with a law enforcement agency was involved in the detention or investigation of the offense.

D. Sentence. Any person found guilty of violating this Section shall be sentenced to imprisonment for a term not to exceed 365 days or be ordered to pay a fine not to exceed five thousand dollars (\$5,000.00), or both, except that civil penalties pursuant to 17 N.N.C. § 204 (D) shall be imposed if the violator is a non-Indian.

§ 447. Possession of child pornography

A. Offense. Any person who knowingly possesses one or more books, magazines, periodicals, films, video tapes, computer generated images, or other matter which contain any visual depiction involving the use of a minor engaging in sexually explicit conduct and such visual depiction is of such conduct is guilty of possession of child pornography.

B. Defense. It shall be an affirmative defense to a crime committed under Subsection A, that

1. The person took reasonable steps to destroy each such visual depiction; or reported the matter to a law enforcement agency and afforded that agency access to each such visual depiction.

C. Sentence. Any person found guilty of violating this Section shall be sentenced to imprisonment for a term not to exceed 365 days or be ordered to pay a fine not to exceed five hundred thousand dollars (\$5,000.00), or both, except that civil penalties pursuant o 17 N.N.C. § 204 (D) shall be imposed if the violator is a non-Indian.

* * * *

Section Four. Codification

The provisions of this Act which amend or adopt new sections of the Navajo Nation Code shall be codified by the Office of Legislative Counsel. The Office of Legislative Counsel shall incorporate such amended provisions in the next codification or supplement of the Navajo Nation Code.

Section Five. Saving Clause

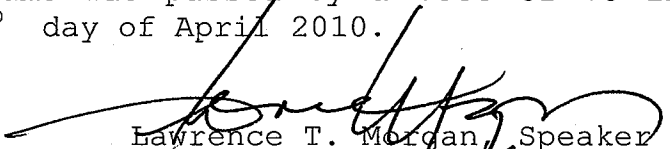
Should any provisions of this Act be determined invalid by the Navajo Nation Supreme Court, or the District Courts of the Navajo Nation, without appeal to the Navajo Nation Supreme Court, those portions of this Act which are not determined invalid shall remain the law of the Navajo Nation.

Section Six. Effective Date

The Navajo Nation Council hereby declares that the effective date of this Act shall be pursuant to 2 N.N.C. § 221 (B).

CERTIFICATION


I hereby certify that the foregoing resolution was duly considered by the Navajo Nation Council at a duly called meeting in Window Rock, Navajo Nation (Arizona) at which a quorum was present and that the same was passed by a vote of 73 in favor and 1 opposed, this 22ND day of April 2010.


Lawrence T. Morgan, Speaker
Navajo Nation Council
04/22/10
Date

Motion: Leonard Anthony
Second: Larry Noble

ACTION BY THE NAVAJO NATION PRESIDENT:

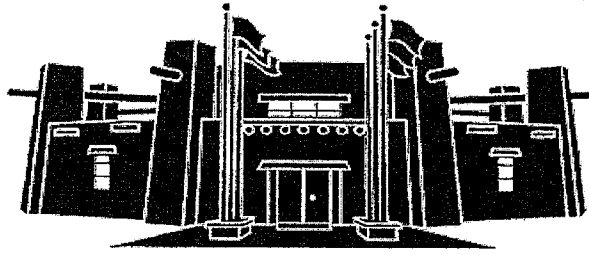
- 1. I hereby sign into law the foregoing legislation, pursuant to 2 N.N.C. §1005 (C) (10), on this _____ day of MAY 14 2010 2010.



Dr. Joe Shirley, Jr., President
Navajo Nation

- 2. I hereby veto the foregoing legislation, pursuant to 2 N.N.C. §1005 (C) (11), this _____ day of _____ 2010 for the reason(s) _____ expressed in the attached letter to the Speaker.

Dr. Joe Shirley, Jr., President
Navajo Nation



PUBLIC SAFETY COMMITTEE
21ST NAVAJO NATION COUNCIL – Third Year, 2009

COMMITTEE REPORT

Mr. Speaker:

The Public Safety Committee, to whom has been referred,

Navajo Legislation No. 0758-09
Introduced by Honorable Hope MacDonald-Lonetree

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CODE, SUBCHAPTER 15 SEXUAL OFFENSES, 17 N.N.C. §§ 440, 445-447

Has had it under consideration and reports same with **DO PASS** recommendation

And thence referred to the **ETHICS AND RULES COMMITTEE**.

Respectfully Submitted,

Rex Lee Jim, Chairperson
PUBLIC SAFETY COMMITTEE

PSC SUMMARY:

Date: December 21, 2009

Motion: Raymond Joe/Kee Yazzie Mann

Vote: 4-1

Caleb Roanhorse, Legislative Advisor

21st Navajo Nation Council

Fourth Year 2010

Mr. Speaker,

The **ETHIC AND RULES COMMITTEE**, to whom has been assigned

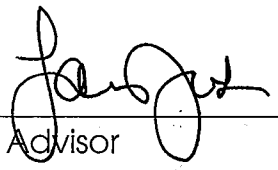
NAVAJO LEGISLATIVE BILL 0758-09

Has had it under consideration and reports the same with a **DO PASS with NO AMENDMENTS :**

And therefore referred to the **21ST NAVAJO NATION COUNCIL.**

Respectfully submitted,


Francis Redhouse, Chairperson

Adopted: 
Advisor

Not Adopted: _____
Advisor

Date: **January 08, 2010**

The vote was 7 in favor and 0 opposed

Excused:

Absent: