

# Prosecutors Will Not Enforce Arizona Anti-Nudity Law Pending Legislative Session, Lawsuit on Hold

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PHOENIX – A federal district court today entered an order staying enforcement of a recently-passed law that restricts the sale or display of nude images, pending the Arizona Legislature's possible reconsideration of the law. The order was issued at the joint request of the Arizona attorney general and a coalition of Arizona booksellers, book and newspaper publishers, librarians, and photographers who had filed a federal lawsuit challenging the law. The federal court also put the lawsuit, *Antigone Books v. Horne*, on hold pending legislative action.

The law, Arizona Revised Statute 13-1425, was initially passed with the stated intent of combating "revenge porn," a term popularly understood to describe a person knowingly and maliciously posting an identifiable, private image online with the intent and effect of harming an ex-lover. But, as plaintiffs maintain in the lawsuit, the law criminalizes far more than these offensive acts. The law isn't limited to revenge: A prosecutor need not prove that the person publishing the photograph intended to harm the person depicted. Likewise, a person who shares a photograph can be convicted of a felony even if the person depicted had no expectation of privacy in the image and suffered no harm. The law applies even when the person in the picture is not recognizable. And the law is not limited to "porn"—it criminalizes publication of nude and sexual images that could not possibly be considered pornography, let alone obscene. As a result, the law could be applied to any person who distributes or displays an image of nudity, including pictures that are newsworthy, artistic, educational or historic.

David Horowitz, executive director of the Media Coalition, whose members include plaintiffs in the suit, said: "This is a welcome development. Because of the state's agreement and the court order, publishers, booksellers, librarians, photographers and others won't have to worry about being charged with a felony for offering newsworthy and artistic images fully protected by the Constitution."

"We commend the state for agreeing not to enforce this law and giving the Arizona Legislature a chance to revisit the broad and problematic language in the bill passed last session," said Lee Rowland, an ACLU attorney who, along with lawyers from the ACLU of Arizona and Dentons US LLP, represents plaintiffs.

Dan Pochoda, attorney for the ACLU of Arizona, added: "It would be a waste of the Arizona taxpayers' money to continue defending this unconstitutional statute. We hope that the legislature will embrace this opportunity to narrow the law so it reaches truly bad actors without infringing on protected First Amendment rights."

A copy of the order is available [here](#).

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