



HOUSE OF REPRESENTATIVES

TWENTY-SECOND LEGISLATURE
COMMONWEALTH OF THE NORTHERN MARIANAS COMMONWEALTH
LEGISLATURE
P.O. BOX 500586 SAIPAN, MP 96950

CELINA R. BABAUTA
CHAIRPERSON
JUDICIARY AND GOVERNMENTAL OPERATIONS COMMITTEE

STANDING COMMITTEE REPORT NO. 22-5
DATE: APRIL 22, 2021
RE: H.B. 22-02

The Honorable Edmund S. Villagomez
Speaker of the House of Representatives
Twenty-Second Northern Marianas
Commonwealth Legislature
Capitol Hill
Saipan, MP 96950

Dear Mr. Speaker:

Your Committee on Judiciary and Governmental Operations to which was referred:

H. B. No. 22-02:

“To amend the Commonwealth Code to authorize civil claims for child sexual abuse to be commenced at any time; and for other purposes.”

begs leave to report as follows:

I. RECOMMENDATION:

After considerable discussion, your Committee recommends that H. B. NO. 22-02 be passed by the House in its current form.

II. ANALYSIS:

A. Purpose:

The purpose of House Bill No. 22-02 is to amend Title 7 of the Commonwealth Code to add a new section to authorize civil claims for child sexual abuse to be commenced at any time.

B. Committee Findings:

Your Committee finds that sexual crimes committed against individuals under the age of eighteen (18) are considered to be highly sensitive cases often leading to traumatic symptoms for such victims. Due to the various reasons, such as revelation of disturbing information, possible threats from abuser, or familial connections to the abuser, many incidents are left unreported and often result to life-long traumatic memories for the rest of their lives. For many victims, the revealing of such troublesome memories will often take years to divulge. Cognizant of the long-lasting impact on victims and the six-year statute of limitations pursuant to 7 CMC §2505, your Committee finds that it would be imperative to allow for civil claims for child sexual abuse to be commenced at any time to empower victims to report such heinous actions. The proposed legislation aims to provide additional protection to victims, especially those who are afraid to speak.

Your Committee further finds that other jurisdictions within the United States, such as Guam, Delaware, Maine, Michigan, Utah, etc., have enacted laws that remove the statute of limitations for child sexual abuse cases to commence.¹ Furthermore, other jurisdictions, such as Pennsylvania, have launched coalitions for the removal of the statute of limitations for such cases.² Your Committee also finds that the CNMI has enacted laws, specifically CNMI Public Law 19-72, that remove the statute of limitations for sexual crimes committed against persons under the age of eighteen (18). Similar to the aforementioned Public Law, the proposed legislation aims to allow for civil claims to be made at any time. As a means to further empower our victims to close one of the darkest chapters of their lives, it is imperative allow civil claims to commence at any time. In doing so, our victims will be able to move forward and inspire others to be courageous in fighting against the continuance of such negative actions and ensuring safety for future generations to come. Therefore, your Committee agrees with the intent and purpose of House Bill No. 22-02 and recommends its passage in its current form.

C. Public Comments/Public Hearing:

The Committee received comments from the following:

- Honorable Edward Manibusan, Attorney General, CNMI Office of the Attorney General
- Ms. Vivian T. Sablan, DYS Administrator, Department of Community & Cultural Affairs' Division of Youth Services

D. Legislative History:

House Bill No. 22-02 was introduced by Representative Joseph Lee Pan T. Guerrero on February 23, 2021 to the full body of the House and was referred to the House Standing Committee on Judiciary and Governmental Operations for disposition.

¹ <https://www.ncsl.org/research/human-services/state-civil-statutes-of-limitations-in-child-sexua.aspx>

² <https://pcar.org/news/pcar-calls-removal-statute-limitations-sexual-assault-cases>

A similar legislation, namely Senate Bill 21-45, was introduced to the full body of the Senate on October 28, 2019 and was referred to the Senate Standing Committee on Judiciary, Government, Law and Federal Relations for disposition. On January 30, 2020, the Senate Committee passed the legislation in the form of Senate Substitute 1 as reflected in Senate Standing Committee Report 21-78. On March 13, 2020, the Senate adopted Senate Standing Committee Report 21-78 and subsequently passed the legislation in a session held on the same date. On April 16, 2020, the proposed legislation was transmitted to the Senate in the form of Senate House Communication 21-84. However, Senate Bill 21-45, SS1 was recalled back to the Senate on April 21, 2020. On May 27, 2020 the House passed the motion to return the proposed legislation back to the Senate. No further action was taken.


E. Cost Benefit:

The enactment of House Bill No. 22-02 will result in additional cost to the CNMI government in the form of additional resources (staff, trainings, equipment, etc.) needed for respective law enforcement agencies to accommodate potential additional reports. However, the benefits of removing the statute of limitations for child sexual abuse cases to commence at any time from a civil litigation perspective heavily outweigh the costs.

III. CONCLUSION:

The Committee is in accord with the intent and purpose of H. B. NO. 22-02, and recommends its passage in its current form.

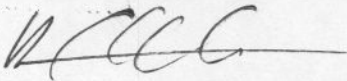
Respectfully submitted,



Rep. Celina R. Babauta, Chairperson



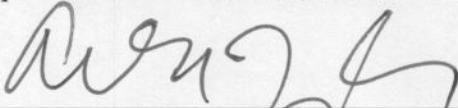
Rep. Blas Jonathan "BJ" T. Attao, Vice Chair



Rep. Vicente C. Camacho, Member



Rep. Richard T. Lizama, Member



Rep. Donald M. Mangiona, Member

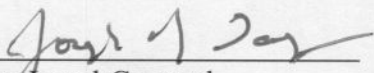


Rep. Christina M.E. Sablan, Member



Rep. Edwin K. Propst, Member

Reviewed by:


House Legal Counsel

Attachment:

- Letter dated March 25, 2021 from the DYS Administrator from the Department of Community & Cultural Affairs' Division of Youth Services; and
- Letter dated April 16, 2021 from the CNMI Attorney General.



DIVISION OF YOUTH SERVICES

DEPARTMENT OF COMMUNITY & CULTURAL AFFAIRS
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS



OFFICE OF THE ADMINISTRATOR

1st Floor, Building 1300, P.O. Box 501000 C.K., Saipan, MP 96950

March 25, 2021

Congresswoman Celina R. Babauta
Chairperson
Judiciary and Government Operations
22nd CNMI House of Representatives
Saipan, MP 96950

Re: *DCCA-Division of Youth Services' Comments on H.B. 22-1 and H.B. 22-2*

Dear Congresswoman Babauta:

The Department of Community & Cultural Affairs Division of Youth Services (DCCA-DYS) hereby submits the following comments:

~~House Bill 22-1~~ To establish the Commonwealth of the Northern Mariana Islands Civil Remedies for unauthorized disclosure of intimate images Act of 2021; and for other purposes.

Comment (s):

1. **The team is in support of the proposed house bill 22-1.**
2. **Page 7, line 2: We just wanted to ensure that the DYS Child Protective Services (CPS) personnel are covered under this section in the event DYS-CPS personnel receive images as part of the reporting of child abuse and neglect.**

Question (s):

1. **What if the defendant is a minor?**
2. **What if the defendant is a person with a disability?**

House Bill 22-2: To amend the Commonwealth Code to authorize civil claims for child sexual abuse to be commenced at any time; and for other purposes.

Comment (s):

- 1. The team is in support of the proposed house bill 22-2.**
- 2. It is vital that individuals who have suffered from child sexual abuse be afforded an opportunity to file a report regardless of the time that has lapsed. Nothing should come in the way of seeking justice.**
- 3. We also find that some parents who come into the system for abusing/neglecting their child (ren) were once victims themselves. Some of these parents continue to suffer as a result of their victimization as they were left unreported/not addressed.**

If you shall have any questions or need additional information, I may also be reached at 670-237-1003/285-2553 or via email at vsablan@dys.gov.mp.

Thank you for your continued partnership with DYS' family strengthening efforts in the CNMI!

Respectfully,



Vivian T. Sablan
DYS Administrator

Cc:

DCCA Secretary
DYS-Child Protective Services Staff



Commonwealth of the Northern Mariana Islands
Office of the Attorney General

2nd Floor Hon. Juan A. Sablan Memorial Bldg.
Caller Box 10007, Capitol Hill
Saipan, MP 96950

EDWARD MANIBUSAN
Attorney General

LILLIAN A. TENORIO
Deputy Attorney General

VIA EMAIL: repcelinababauta@gmail.com

April 16, 2021

OAGHOR: 2021-027
LSR No. 21-080

Hon. Celina R. Babauta
Chairperson, House Standing Committee
on Judiciary & Governmental Operations
House of Representatives
22nd Northern Marianas Commonwealth Legislature
Saipan, MP 96950

Re: **HB No. 22-1** (private right of action for unauthorized disclosure of intimate images); **HB 22-2** (authorize civil claims for child sexual abuse by eliminating statute of limitations); **HB 22-3** (require motor vehicle liability insurance expiration to be consistent with the vehicle registration expiration); **HB 22-4** (amend DPS time period to produce police traffic and criminal investigation to 3 days); **HB 22-18** (enhanced penalties for hate crimes) and **HB 22-20** (enhanced CPA police authority)

Dear Chairperson Babauta:

Thank you for requesting the Office of the Attorney General to submit comments on the bills listed above. Based on our review of the proposed legislation, we provide the following comments:

HB 22-1 (Private right of action for unauthorized disclosure of intimate images)

The Bill (like HB 21-107 introduced in the 21st Legislature) is patterned after a model statute drafted by the Uniform Law Commission (ULC). The Commission recognizes that the model statute raises First Amendment free speech issues.

Several provisions in the Bill are not found in the model statute. Among them is the definition of "public concern or interest" in Section 102(m). The definition refers back to "policies expressly set forth" in Section 230(b) of Communications Decency Act of 1996, a federal law. In reviewing Section 230(b), no references are made to anything that would add to what "public concern or interest" would mean. As a result, the language of the definition may create mischief rather than provide clarity in the future. As such, the Committee should consider deleting the definition altogether. It is not included in the ULC's draft and is not necessary to the civil action that would be authorized if the Bill becomes law.

Civil Division
Telephone: (670) 237-7500
Facsimile: (670) 664-2349

Criminal Division
Telephone: (670) 237-7600
Facsimile: (670) 234-7016

Attorney General's Investigation Division
Telephone: (670) 237-7627
Facsimile: (670) 234-7016

Victim Witness Advocacy Unit
Telephone: (670) 237-7602
Facsimile: (670) 664-2349

Also, Subsection 104(a)(2) lists conduct that would not create liability if the intimate image was made in good faith in a reporting or investigation. Among them is Subsection 104(a)(2)(C) "a matter of public concern or public interest." Generally, such matters are too general to trigger reporting or investigation. Instead redesignate as Subsection 104(a)(3) consistent with the ULC draft.

For clarity, subsection 104(c)(1) should be revised to read "prohibited by law other than this Subsection Chapter."

Minor observation: (1) the Bill should consistently use the term "Chapter" and not "Act." The terms that are defined in Section 102 should be in parenthesis for clarity; some of the terms are phrases and not singular words.

HB 22-2 (Authorize civil claims for child sexual abuse by eliminating statute of limitations)

HB 22-2 follows a legislative trend in several states to reform both criminal and civil statutes to give child sexual abuse victims increased access to the justice system. Many victims of child sexual abuse are barred by statute of limitations in pursuing civil claims against the perpetrators. The justification for statutes of limitations is that courts should not have to deal with stale claims regarding offenses that allegedly occurred decades earlier, with valuable and potentially exculpatory evidence being lost over time.

Victims of child sex crimes, however, often need many years to overcome the pain of their abuse and time to obtain the courage needed to speak out about the abuse that they have suffered. As such, several states have extended their statute of limitation law specifically to take into account the delicate nature of child sex crimes to provide legal opportunities for sexual abuse victims to pursue civil claims even for abuse that that occurred many years ago. This Bill accomplishes that objective.

HB 22-3 (require motor vehicle liability insurance expiration to be consistent with the vehicle registration expiration)

It is unclear from the Bill if the current system needs to be fixed.

HB 22-4 (amend DPS time period to produce police traffic and criminal investigation to 3 days)

Current law in the Traffic chapter of the Commonwealth Code requires a DPS officer to complete a vehicle accident report within ten days after investigation of the accident. The bill proposes to reduce that deadline to three days, creates an exception for good cause, and imposes a punishment of three days suspension for an officer who fails to comply with the new deadline.

Traffic accidents are common in CNMI, each requiring an investigation and then a written report. In the prosecution of such cases, the Office of Attorney General has not experienced frequent delays in obtaining

such reports. When a delay occurs, the Office of the Attorney General contacts the officer or, if necessary, the officer's supervisor. That system has been adequate for addressing the timeliness of accident reports.

Three days may not be realistic for completing accident reports. Depending on the complexity, an officer may need additional time to interview witnesses, reconstruct the accident, obtain medical records, and collect other evidence or information. In cases involving injury or death, additional time is frequently needed.

A rigid system of suspension for delay may be counterproductive. In addition, penalizing the officer may create new impeachment information that could damage or interfere with a prosecution. The presumption of misconduct merely upon the expiration of three days without a finding of good cause may also create due process issues.

Perhaps another approach could help improve the delivery of timely accident reports. The Department of Public Safety could be required to maintain statistics to determine whether there is an ongoing, serious issue regarding the delay in preparing reports. Once such information is known, the problem, if any, could better be addressed through training, internal regulations or policy rather than a rigid statute imposing a mandatory suspension.

HB 22-18 (Enhanced sentencing for the commission of crimes motivated by hate)

This Bill enhances the punishment for certain crimes if the defendant was motivated by a prejudice against certain protected classes of people. Such legislation has been approved, so long as the finding is made beyond a reasonable doubt by the trier of fact. *See Ex parte Boyd*, 58 S.W.3d 134 (Tex. Crim. App. 2001) (granting habeas relief because judge, not jury, made finding). Given this concern, the Bill should make it clear that the hate crime finding must be determined beyond a reasonable doubt by the trier of fact.

This bill requires proof that a crime must be "in whole or substantial part" motivated by an unlawful hatred. The word "substantial" is unclear and should be deleted. An enhancement should be justified by any hate-based crime, regardless of the other motives involved in the defendant's decision to commit the crime. Frankly, how would a jury even measure the weight of a hate crime motivation as against other motivations? How would an appellate court conduct such a review? By deleting the word "substantial", this problem is eliminated.

The bill has a confusing provision for how a hate crime finding changes sentencing. The current language is likely to leave lawyers wondering how to apply it. The language should be replaced with the following:

A minimum of 90 days confinement for a misdemeanor offense; and
A minimum of 180 days confinement for a felony offense.

The Commonwealth should join the majority of jurisdictions with a hate crime enhancement law. However, the above recommendations insure that the new law is constitutional and applied evenly.

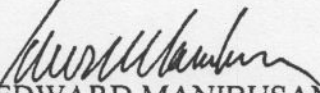
HB 22-20 (Enhanced CPA police authority)

The language of the Bill is too vague and does not provide an adequate legal framework to guide CPA in implementing the additional responsibilities of its law enforcement personnel.

In Section 101(a), the Ports Police would be in charge of enforcing CPA's enabling statute and related provisions on seaport and airport operations which is described as "authority. . . concurrent with the authority of any other law enforcement agency as provided by law." The language in Subsection (a) should include additional information on what duties, responsibilities and authority would be added to the Ports Police. Subsection (a) also refers to "other employee of the **Commission**." (emphasis added). Commission should be replaced by "Authority" to refer back to CPA.

The language in Subsection (b) should also be reviewed against the criminal offenses that are in CPA's enabling statute to determine whether the public's interest would be served in giving CPA's port police the powers of arrest and seizure of evidence. There are only two criminal provisions in CPA's enabling statute: (1) one relating to the installation of rat guards on vessels in 2 CMC § 2313; and (2) the other relating to airport operations providing broadly written criminal offense in 2 CMC § 2213 making a misdemeanor for any violation of the statutory provisions relating to the Air Navigation Safety Zoning Act. Section 2213 is especially problematic because of the language is plainly overbroad. Substantial changes should be made to this Bill and CPA's enabling statute to ensure proper law enforcement authority is vested in its police force.

Sincerely,


EDWARD MANIBUSAN
Attorney General

cc: All Members, House of Representatives

TWENTY-SECOND NORTHERN MARIANAS COMMONWEALTH

LEGISLATURE

IN THE HOUSE OF REPRESENTATIVES

Regular Session, 2021

H. B. 22- 2

A BILL FOR AN ACT

To amend the Commonwealth Code to authorize civil claims for child sexual abuse to be commenced at any time; and for other purposes.

BE IT ENACTED BY THE 22ND NORTHERN MARIANAS
COMMONWEALTH LEGISLATURE:

1 **Section 1. Findings and Purpose.** The Legislature finds that sexual crimes
2 committed against persons under the age of eighteen (18) are very sensitive cases
3 that can severely traumatize young victims. Often times, these incidents are left
4 unreported due to the victim's fear of revealing such disturbing information, threats
5 made by the abuser, or familial connections of the abuser.

6 The Legislature finds that for many child victims, the trauma itself prevents
7 them from coming forward earlier. As adults, victims may not connect the assault
8 to its long-lasting impact until they seek therapeutic help years later often referred
9 to as delayed discovery. Delayed discovery is a result of emotional or psychological
10 trauma that is often accompanied with repression in a person's memory that the
11 abuse actually took place, in which the psychological injuries are not realized until

1 adulthood after undergoing counseling or therapy. Many of the injuries associated
2 with childhood sexual abuse do not manifest themselves until much later in life.

3 The Legislature further finds that criminal prosecution is not barred by a
4 statute of limitation and prosecution may be pursued at any time for a case in which
5 an adult discovers that he or she was a victim of sexual abuse as a child under the
6 age of eighteen. The criminal prosecution option remains open regardless of the
7 passage of time pursuant to 6 CMC § 107(a). However, the same option is not
8 available for civil cases involving sexual abuse of victims that occurred when they
9 were under 18 years of age; however, such victims realized or discovered the sexual
10 abuse during their adulthood after more than 6 six years have elapsed. This type of
11 case, if pursued through civil litigation, is barred by the current six-years statute of
12 limitation under 7 CMC § 2505.

13 The Legislature finds that the expiration of applicable statute of limitations
14 for child sexual abuse victims during this period resulted in barring many
15 meritorious civil claims. This has allowed many child sexual abusers to escape civil
16 liability. If evidence is sufficient to prove civil liability, the mere passage of time
17 should not prevent child sexual abuse victims from seeking justice.

18 Furthermore, eliminating the time limitation for civil actions involving
19 sexual abuse of minors will prove to be beneficial for it will give the victims,
20 regardless of age and duration since the alleged incident, the opportunity to build
21 their confidence and report such incidents knowing that they can begin at any time

1 regardless of the time duration since the victim reached the age of eighteen (18)
2 and still be made whole. Therefore, the purpose of this Act is to amend Title 7 of
3 the Commonwealth Code to add a new section to authorize civil claims for child
4 sexual abuse to be commenced at any time.

5 **Section 2. Amendment.** Title 7, Division 2, Chapter 5 of the
6 Commonwealth Code is amended by adding a new section 2515 to read as follows:

7 “§ 2515. No Limit for Child Sexual Abuse.

8 (a) Any claim arising from an incident of child sexual abuse may
9 be commenced against a person, a legal entity, abusers, their enablers, their
10 aiders or abettors, those acting in concert with them and their institutions at
11 any time.

12 (b) Any claim arising from an incident of child sexual abuse that
13 occurred in the Commonwealth of the Northern Mariana Islands which has
14 been barred by virtue of the expiration of the previous civil statute of
15 limitations shall be permitted to be filed in any court of competent
16 jurisdiction.”


17 **Section 3. Severability.** If any provision of this Act or the application of
18 any such provision to any person or circumstance should be held invalid by a court
19 of competent jurisdiction, the remainder of this Act or the application of its
20 provisions to persons or circumstances other than those to which it is held invalid
21 shall not be affected thereby.

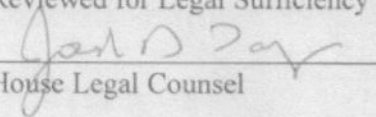
1 **Section 4. Savings Clause.** This Act and any repealer contained herein
2 shall not be construed as affecting any existing right acquired under contract or
3 acquired under statutes repealed or under any rule, regulation or order adopted
4 under the statutes. Repealers contained in this Act shall not affect any proceeding
5 instituted under or pursuant to prior law. The enactment of this Act shall not have
6 the effect of terminating, or in any way modifying, any liability civil or criminal,
7 which shall already be in existence at the date this Act becomes effective.


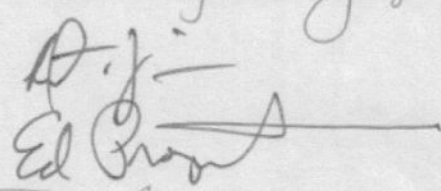
8 **Section 5. Effective Date.** This Act shall take effect upon its approval by
9 the Governor or upon its becoming law without such approval.

Prefiled: Jan. 22, 2021

Date: _____

Introduced by: 
Rep. Joseph Leepan T. Guerrero

Reviewed for Legal Sufficiency by:

House Legal Counsel


Denita Yangetmai

Ed Brown
