



TWENTY-THIRD NORTHERN MARIANAS COMMONWEALTH LEGISLATURE
HOUSE OF REPRESENTATIVES
COMMITTEE ON JUDICIARY AND GOVERNMENTAL
OPERATIONS

P.O. BOX 500586 SAIPAN, MP 96950

MARISSA R. FLORES
CHAIRWOMAN

Adopted - 3/9/2023
STANDING COMMITTEE REPORT NO. 23-3
DATE: FEBRUARY 15, 2023
RE: H.B. 23-13

The Honorable Edmund S. Villagomez
Speaker of the House of Representatives
Twenty-Third 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. 23-13:

“To amend the Crimes and Criminal Procedure Code definitions of dangerous weapon and serious bodily injury”

begs leave to report as follows:

I. RECOMMENDATION:

After considerable discussion, your Committee recommends that H. B. No. 23-13 be passed by the House in its current form.

HOUSE CLERK'S OFFICE
RECEIVED BY *Smr*
DATE *2/23/2023* TIME *4:01 PM*

II. ANALYSIS:

A. Purpose:

The purpose of House Bill No. 23-13 is to amend the Crimes and Criminal Procedure Code definitions of dangerous weapon and serious bodily injury.

B. Committee Findings:

Your Committee finds that the use of a dangerous weapon to cause serious bodily injury is a pressing concern in regards to public safety. In recent cases in the CNMI, crimes involving the use of an object has been used to cause all levels of injury. However, such cases were either dismissed or proven hard to prosecute due to the definition of “dangerous weapon” and/or “serious bodily harm”. Such cases occur not only outside confinement facilities, but within such facilities as well with the use of a “shank” or “shiv”.¹ Despite such an occurrence, the Office of the Attorney General and the CNMI Superior Court were forced to dismiss the case due to current definition of “dangerous weapon”.² Your Committee finds that this unfortunate series of events should not be taken lightly and must be handled accordingly. An individual’s life was put at significant risk causing severe traumatic physical and mental injury. Your Committee finds that we must amend the terms “dangerous weapon” and “serious bodily injury” to allow for better prosecution of such cases for public safety purposes.

Your Committee also finds that in Texas³, California⁴ and so forth have laws that include make shift items that can be used to cause bodily harm to an individual that causes mental stress. Based on current CNMI Law, firearms guns, knives, machetes, and so forth are included in the list of “dangerous weapon” pursuant to 6 CMC §102(f). Similar to the previously stated U.S. jurisdictions, it would be appropriate to include “shanks” and “shivs” in such definition for they can cause serious danger if used in a reckless and/or impulsive manner. Furthermore, pursuant to 6 CMC §103(n), a “serious bodily injury” means bodily injury which creates a high probability of death or which causes serious permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ, or other bodily injury of like severity. Your Committee further finds that it would be imperative to consider the mental damage caused with the use of such dangerous weapons for it also takes a heavy toll on their mental state for the rest of their lives. Therefore, your Committee agrees with the intent and purpose of House Bill No. 23-13 and recommends its passage in its current form.

¹ <https://www.saipantribune.com/index.php/male-inmate-allegedly-stabs-a-male-barber-for-being-gay/>

² https://www.mvariety.com/news/local/judge-camacho-shank-used-to-stab-barber-not-a-dangerous-weapon/article_21db46ac-efc2-5174-9d54-f68120943989.html

³ <https://codes.findlaw.com/tx/penal-code/penal-sect-1-07.html>

⁴ <https://www.shouselaw.com/ca/defense/penal-code/4502/>

C. Public Comments/Public Hearing:

The Committee received comments from the following:

- Honorable Edward Manibusan, CNMI Attorney General (Written)

The Attorney General is in support of the proposed legislation.

- Mr. Robert Glass Jr., Chief Solicitor, CNMI Office of the Attorney General (Oral)

Mr. Glass has verbally stated that the Attorney General's Office is in support of the proposed legislation.

D. Legislative History:

House Bill No. 23-13 was introduced by Representative Marissa R. Flores on February 03, 2023 to the full body of the House and was referred to the House Standing Committee on Judiciary and Governmental Operations for disposition.

E. Cost Benefit:

The enactment of House Bill No. 23-13 will result in minimal additional costs to the CNMI government in the form additional enforcement, training, administrative and prosecution expenses. However, the benefits of ensuring safety from the use of dangerous weapons to cause harm heavily outweigh the costs.


III. CONCLUSION:

The Committee is in accord with the intent and purpose of H. B. NO. 23-13, and recommends its passage in its current form.


Respectfully submitted,




Rep. Marissa R. Flores, Chairwoman



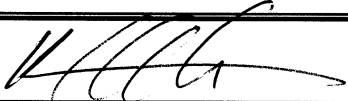
Rep. Vincent R.S. Aldan, Member



Rep. Joel C. Camacho, Vice Chair



Rep. Blas Jonathan "BJ" T. Attao, Member



Rep. Vicente C. Camacho, Member



Rep. Manny G.T. Castro, Member



Rep. Malcolm J. Omar, Member

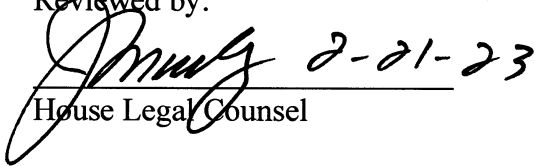


Rep. Edwin K. Propst, Member



Rep. John Paul P. Sablan, Member

Reviewed by:



2-21-23

House Legal Counsel

Attachment:

- o Letter dated February 02, 2023 from the CNMI Attorney General.



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: rep.floresm@cnmileg.net

February 2, 2023

OAGHOR: 2023-38

Hon. Marissa Flores
Representative
House Standing Committee on Judiciary
and Governmental Operations
House of Representatives
23rd Northern Marianas Commonwealth Legislature
Saipan, MP 96950

Dear Representative Flores:

Thank you for the opportunity to comment on House Bill 23-13 (To amend the Crimes and Criminal Procedure Code definitions of dangerous weapon and serious bodily injury).

The Office of the Attorney General supports passage of this bill. The current statute is a carryover from the Trust Territory Code, the definitions of dangerous weapon and serious bodily injury will be revised to the modern language and concepts used in most jurisdictions. In a recent case at DOC, a judge rejected the allegation of a dangerous weapon, even though an inmate had sharpened a tooth brush and used it repeatedly to stab the head of a barber. The proposed changes will include a listing of per se dangerous weapons and include any object used by a person in custody. The definition will also include any weapon used by a defendant and any object if used and intended to be used as a dangerous weapon.

The bill tightens the definition of dangerous weapon by adopting language in (f)(2-3) from Texas statutory law on that subject, which has been frequently approved through case law. The change makes it clear that a dangerous weapon can be:

- 1) Any one of several specifically identified items;
- 2) Any other thing that was designed, made or adapted to cause death or serious bodily injury;
- 3) Any other thing that is used in a manner or intended to cause death or serious bodily injury; or
- 4) Any other thing that causes injury of like severity.

As to the definition of "serious bodily injury," the bill tightens the meaning by deleting the vague phrases of "a high probability" and "serious" and instead focuses more on the fact that an injury is considered serious

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

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

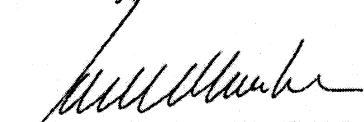
Attorney General's Investigation Division
Telephone: (670) 237-7627
Facsimile: (670) 234-7016

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

simply because of the risk of death, permanent disfigurement or other bodily injury of like severity. This bill provides a concise definition of the terms “dangerous weapon” and “serious bodily injury” and promotes greater public safety by putting criminals on notice that serious injuries will have tougher consequences. Therefore, the Office of the Attorney General supports this bill and finds that it improves the definitions related to serious felony assaults.

I welcome the opportunity to meet with you and members of the Legislature to discuss the proposed legislation. Please let me know at your earliest convenience when we can sit down to discuss the proposals and other policy matters and concerns on which my Office may offer guidance.

Sincerely,



EDWARD MANIBUSAN
Attorney General

TWENTY-THIRD NORTHERN MARIANAS COMMONWEALTH

LEGISLATURE

IN THE HOUSE OF REPRESENTATIVES

February 3, 2023

1st Day. Session, 2023

H. B. 23- *19*

A BILL FOR AN ACT

To amend the Crimes and Criminal Procedure Code definitions of dangerous weapon and serious bodily injury.

**BE IT ENACTED BY THE 23RD NORTHERN MARIANAS
COMMONWEALTH LEGISLATURE:**

1 **Section 1. Purpose.** The purpose of the Act is to clarify the definition of
2 "dangerous weapon" and "serious bodily injury". The amendments rely upon
3 definitions in Texas Penal Code § 1.07(a)(17) and § 1.07(a)(46) and the Texas cases
4 interpreting that language. The Office of the Attorney General presented a request
5 to Legislature for action on this subject in order to address problems in prosecuting
6 serious cases of violence.

7 Recent cases have shown some confusion in court with the application of
8 the definition of a dangerous weapon in assault and battery cases. Such cases
9 involve a variety of objects and all levels of injury. In a particular case, an attack
10 by an inmate in prison with a handmade weapon was dismissed as insufficient to
11 establish a dangerous weapon, despite the danger of serious injury through the use
12 of a shank against a victim.

1 Cases in which a criminal defendant uses a weapon or causes serious bodily
2 injury present the greatest danger to the public and victims. Prosecution of those
3 cases should be a priority, and increased punishment is justified by the choice of
4 the defendant to escalate the assault and battery by using a weapon or causing
5 serious bodily injury. This bill clarifies those definitions, simplifies the description
6 of threatened or actual injury and emphasizes to the courts in the application of law
7 that anything may be treated as a dangerous weapon through the manner of its use
8 or intended use, regardless whether there was actual loss of life or permanent injury.

9 **Section 2. Amendment.** 6 CMC § 102(1) is hereby amended to read as
10 follows:

11 “(f) “Dangerous weapon” means

12 (1) any automatic weapon, dangerous device, firearm, gun,
13 handgun, long gun, semiautomatic weapon, knife, machete ~~or other thing~~
14 ~~by which a fatal wound or injury may be inflicted,~~ spear gun, shank, or shiv;

15 (2) anything manifestly designed, made, or adapted for the purpose
16 of inflicting death or serious bodily injury; or

17 (3) anything that in the manner of its use or intended use is capable
18 of causing death or serious bodily injury, regardless whether death or
19 serious bodily injury actually occurred.

20 **Section 3. Amendment.** 6 CMC 103(n) is amended as follows:

21 “(n) “Serious bodily injury” means bodily injury ~~which that~~

1 (1) ~~creates a high probability risk of death or causes death; or,~~
2 (2) ~~which causes serious permanent disfigurement; or,~~
3 (3) ~~which causes a permanent or protracted loss or impairment of~~
4 ~~the function of any bodily member, or organ, or mental faculty or~~
5 ~~other bodily injury of like severity.”~~

6 **Section 4. Severability.** If any provisions of this Act or the application of
7 any such provision to any person or circumstance should be held invalid by a court
8 of competent jurisdiction, the remainder of this Act or the application of its
9 provisions to persons or circumstances other than those to which it is held invalid
10 shall not be affected thereby.

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

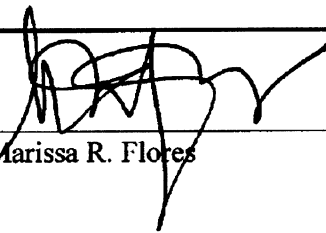
18 **Section 6. Effective Date.** This Act shall take effect upon its approval by
19 the Governor, or its becoming law without such approval.

Prefiled: 1/31/2023

HOUSE BILL 23-13

Date: 1/31/2023

Introduced by:


Rep. Marissa R. Flores

Reviewed for Legal Sufficiency by:

 1-31-23
House Legal Counsel