

# 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

*Adopted - 3/29/2022*  
STANDING COMMITTEE REPORT NO. 22-41  
DATE: FEBRUARY 25, 2021  
RE: H.B. 22-20

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. 22-20:

“To amend Title 2, Division 2, Chapter 1 of the Commonwealth Code to grant the Commonwealth Ports Authority (CPA) – Ports Police with law enforcement authority.”

begs leave to report as follows:

## I. RECOMMENDATION:

After considerable discussion, your Committee recommends that H. B. NO. 22-20 be passed by the House in the form of House Substitute 1.

HOUSE CLERK'S OFFICE  
RECEIVED BY *fh*  
DATE *03/15/22* TIME *1:43pm*

## II. ANALYSIS:

### A. Purpose:

The purpose of House Bill No. 22-20 is to amend Title 2, Division 2, Chapter 1 of the Commonwealth Code to grant the Commonwealth Ports Authority (CPA) – Ports Police with law enforcement authority.

### B. Committee Findings:

Your Committee finds that the Commonwealth Ports Authority (CPA), as initially established by CNMI Public Law 2-48 [specifically under 2 CMC §2122(b)], is tasked with managing and operating all airports and seaports within the CNMI borders. Cognizant of such jurisdictional responsibilities, CPA consists of a Ports Police section that enforces all applicable laws and regulations and ensures their compliance. Throughout the years, the CPA's Ports Police section has employed officers, conducted and participated in law enforcement trainings, established appropriate regulations, and so forth, in order to provide a conducive law-abiding atmosphere for all ports within our borders. Therefore, your Committee recognizes the CPA-Ports Police as a law enforcement agency of the CNMI Government.

However, your Committee also finds under CNMI Public 12-60, which amended 6 CMC §2208, the CPA Ports Police was recognized as a law enforcement agency in which their law enforcement officers were provided with the same powers, authority, and death benefits as other law enforcement officers in other government agencies. However, with the enactment of the Second Special Act for Firearms Enforcement (SAFE II), specifically CNMI Public Law 19-73, 6 CMC §2208 was repealed in its entirety. Removal of such statute has made the CPA Ports Police's law enforcement authority unclear. It is the intent of this proposed legislation to provide clarity in regards to such authority and to restore what was unintentionally removed by SAFE II. The CPA Ports Police is a vital law enforcement entity that must be recognized for their roles in ensuring greater law enforcement protection to the CNMI.

It is the intent of your Committee to amend the proposed legislation to provide greater clarity for the CPA Ports Police's law enforcement authority than the original legislation and to amend 1 CMC §7406(a)(4) to recognize their vehicles as "law enforcement vehicles" for government purposes. Therefore, your Committee agrees with the intent and purpose of House Bill No. 22-20 and recommends its passage in the form of House Substitute 1.

### C. Public Comments:

The Committee received comments from the following:

- Honorable Edward Manibusan, Attorney General, CNMI Office of the Attorney General

D. Legislative History:

House Bill No. 22-20 was introduced by Representative Blas Jonathan "BJ" T. Attao on February 19, 2021 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:

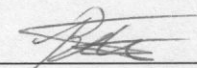
The enactment of House Bill No. 22-20, HS1 will not result in additional costs to the CNMI government due to the fact that the proposed legislation intends to clarify the Commonwealth Ports Authority Ports Police's authority, power, and recognition as a CNMI Law Enforcement Agency. The respective agency already has the necessary resources to be recognized as a law enforcement agency, such as staff, trainings, and so forth, and continues to conduct their daily operation. Furthermore, the intent of the proposed legislation is to fill an unintentional void that existed because of the passage of SAFE II. Therefore, the enactment of the proposed legislation will not result in additional costs to the CNMI Government.


III. CONCLUSION:

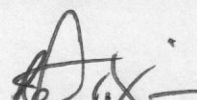
The Committee is in accord with the intent and purpose of H. B. NO. 22-20, and recommends its passage in the form of House Substitute 1.

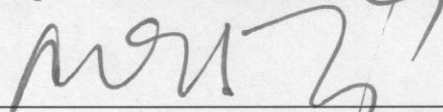
Respectfully submitted,

  
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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. Manglona, Member

\_\_\_\_\_  
Rep. Christina M.E. Sablan, Member

\_\_\_\_\_  
Rep. Edwin K. Propst, Member

Reviewed by:

  
House Legal Counsel

Attachment:

- Letter dated April 16, 2021 from the CNMI Attorney General.



Commonwealth of the Northern Mariana Islands  
**Office of the Attorney General**

2<sup>nd</sup> 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](mailto: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  
22<sup>nd</sup> 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  
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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.

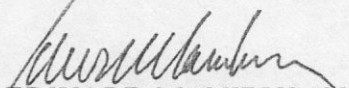
**HB 22-20 (Enhanced CPA police authority)**

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**

**FEBRUARY 19, 2021**

**First Regular Session, 2021**

**H. B. 22-20, HS1**

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**A BILL FOR AN ACT**

To clarify the Commonwealth Ports Authority Ports Police's authority, power, and recognition as a CNMI law enforcement agency.

**BE IT ENACTED BY THE 22<sup>ND</sup> NORTHERN MARIANAS  
COMMONWEALTH LEGISLATURE:**

1           **Section 1. Findings and Purpose.** The Legislature finds that, although the  
2 Commonwealth Ports Authority is given the power to protect and police its ports  
3 by 2 CMC § 2122(b), the status of the Commonwealth Ports Authority Ports Police  
4 as law enforcement officers is unclear under existing law.

5           In 2001, this issue was rectified by Public Law No. 12-60, which amended  
6 6 CMC § 2208, a provision of the Weapons Control Act, to state that the  
7 Commonwealth Ports Authority Ports Police were a law enforcement agency of  
8 which its law enforcement officers had the same powers, authority, and benefits as  
9 other law enforcement officers within the CNMI. This issue has resurfaced due to  
10 the passage of the Second Special Act for Firearms Enforcement ("SAFE II"),  
11 Public Law No. 19-73, which, among other things, repealed 6 CMC § 2208.

1           SAFE II was enacted in response to the March 28, 2015, United States  
2 District Court for the District of the Northern Mariana Islands decision holding that  
3 the Second Amendment of United States Constitution applies to the CNMI. SAFE  
4 II was enacted to protect the lives, safety, and welfare of the People of the  
5 Commonwealth by creating strict registration schemes for the licensing of firearm  
6 owners, licensing and regulation of firearm vendors, and the registration of  
7 individual firearms in the CNMI. In making SAFE II congruent with other CNMI  
8 law, the Legislature repealed provisions of the Weapons Control Act, including 6  
9 CMC § 2208.

10           The Legislature now finds that the repeal of 6 CMC § 2208, without more,  
11 has once again made the Commonwealth Ports Authority Ports Police status as a  
12 law enforcement agency unclear under existing law.

13           Therefore, the purpose of this Act is to amend the Commonwealth Code to  
14 clarify the Commonwealth Ports Authority Ports Police's authority, power, and  
15 recognition as a CNMI law enforcement agency.

16           **Section 2. Enactment.** Article 2, Chapter 1, Division 2 of Title 2 of the  
17 Commonwealth Code is hereby amended by the addition of the following Section  
18 2331 to read as follows:

19           **"§ 2331. Ports Police; Powers and Authority; Violations and Penalties.**

20           (a) The Commonwealth Ports Authority shall have the power and authority  
21 to appoint such number of police officers as may be found necessary for the

1 protection of the Ports. The Commonwealth Ports Authority shall have the power  
2 to administer to its police officers an oath or affirmation to faithfully perform the  
3 duties of their respective positions or offices. The authority of Commonwealth  
4 Ports Authority Ports Police shall be concurrent with the authority of any other law  
5 enforcement agency as provided by law.

6 (b) The Commonwealth Ports Authority Ports Police shall be considered a  
7 law enforcement agency, headed by the Chief of the Ports Police. All officers  
8 employed by the Ports Police are deemed to be law enforcement officers and shall  
9 have all the powers, authority, and benefits that other CNMI law enforcement  
10 officers are accorded by law, including the right to carry a firearm in the  
11 performance of official duties and immunities. These powers include, but are not  
12 limited to, actions undertaken to:

13 (1) Maintain the peace and perform general security duties at the  
14 Ports, including, but not limited to, the authority to arrest and enforce the  
15 provisions of this chapter, the regulations promulgated thereunder,  
16 applicable federal security programs, and the Vehicle Code.

17 (2) Serve warrants of arrest; make arrests when there is probable  
18 cause to believe a crime has been committed in an officer's presence; make  
19 arrests or issue summonses for evasion or attempts to evade the payment of  
20 penalties, fines, fees, and other charges for use of the Ports; serve court

1 processes and orders; seize evidence related to any violation of law; and  
2 bring persons before the Commonwealth courts when so ordered.

3 (3) Participate in information-sharing with other Commonwealth  
4 and Federal agencies, branches, public corporations, autonomous agencies,  
5 elected boards, and licensing boards regarding employee and applicant  
6 background and pre-certification checks. Such information may include  
7 past criminal convictions, civil offenses, and traffic citations.

8 (4) Levy fines and penalties for the violation of provisions or  
9 regulations promulgated under this chapter, including the right to issue  
10 citations to vehicles parked in violation of Commonwealth Ports Authority  
11 regulations.

12 (i) Parking citations shall require the person who parked said  
13 vehicle to respond by the payment of a fine in an amount set by  
14 the Commonwealth Ports Authority or by appearing in the court  
15 which handles misdemeanor traffic offenses in the CNMI, in  
16 which event the amount of the fine shall be fixed at the discretion  
17 of the judge of said court, but in no event shall the fine exceed  
18 \$100. In addition to the right to issue parking citations, Ports  
19 Police officers shall have the right to remove improperly parked  
20 cars or vehicles in accordance with this chapter and the  
21 regulations promulgated thereunder.

1                   (5) Coordinate with federal, state, and local government officials for  
2                   the protection of the Ports.

3                   (6) Execute any other process issued by a court of competent  
4                   jurisdiction.

5                   (c) If the Commonwealth Ports Authority enters into a mutual agreement  
6                   with any other law enforcement agency which provides for the rendering of  
7                   assistance, any Ports Police officer may assist the other law enforcement agency in  
8                   the enforcement of the laws and regulations enforced by the other law enforcement  
9                   agency in the other agency's jurisdiction(s). Such assistance is hereby declared to  
10                  be within the scope of the Port Police officer's jurisdiction and duties as a law  
11                  enforcement officer of the CNMI.

12                  (d) Persons violating any provisions of this chapter or any rule or regulation  
13                  adopted by the Commonwealth Ports Authority shall be subject to the fine or  
14                  penalty provided therein. On default of payment of such fine or penalty, the person  
15                  may be imprisoned up to 30 days as decreed by a judicial officer of the CNMI.  
16                  Upon conviction of any subsequent offense, the person shall be subject to an  
17                  enhanced fine or penalty or to imprisonment up to 60 days, or both, at the discretion  
18                  of the said judicial officer.

19                  (e) Nothing in this section shall be construed to preclude, or limit in any  
20                  way, the authority of any Federal or CNMI law enforcement agency, or any other  
21                  federal police or federal protective service.”

1           **Section 3. Amendment.** Section 7406(a)(4) of Title 1 of the  
2 Commonwealth Code is hereby amended by to read as follows:

3           ““Law enforcement vehicle” means police cars and other such government vehicles  
4 operated by the Department of Public Safety, Alcohol Beverage and Tobacco  
5 Control (ABTC) Division, Commonwealth Ports Authority Ports Police, or  
6 Division of Customs and used primarily for the enforcement of Commonwealth or  
7 federal laws and regulations.”

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

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

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

HOUSE BILL 22-20, HS1

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Prefiled: 2/10/2021

Date: 2/10/2021

Introduced by: /s/ Rep. Blas Jonathan "BJ" T. Attao  
/s/ Rep. Roy C.A. Ada  
/s/ Rep. Celina R. Babauta  
/s/ Rep. Ivan A. Blanco  
/s/ Rep. Vicente C. Camacho  
/s/ Rep. Angel A. Demapan  
/s/ Rep. Joseph A. Flores  
/s/ Rep. Joseph Leepan T. Guerrero  
/s/ Rep. Richard T. Lizama  
/s/ Rep. Donald M. Manglona  
/s/ Rep. Edwin K. Propst  
/s/ Rep. Christina M.E. Sablan  
/s/ Rep. John Paul P. Sablan  
/s/ Rep. Patrick H. San Nicolas  
/s/ Rep. Leila H.F.C. Staffler  
/s/ Rep. Edmund S. Villagomez  
/s/ Rep. Ralph N. Yumul

Reviewed for Legal Sufficiency by:

/s/ John F. Cool  
House Legal Counsel