



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

Adeyrol - 3/9/2023
STANDING COMMITTEE REPORT NO. 23-5
DATE: FEBRUARY 15, 2023
RE: H.B. 23-17

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. 23-17:

“To provide clarity relative to the crime of promoting prison contraband, or otherwise known as the Contraband Reform Act of 2023; and for other purposes”

begs leave to report as follows:

I. RECOMMENDATION:

After considerable discussion, your Committee recommends that H. B. NO. 23-17 be passed by the House in the form of House Substitute 1.

HOUSE CLERK'S OFFICE
RECEIVED BY *[Signature]*
DATE 2/23/2023 TIME 4:07pm

II. ANALYSIS:

A. Purpose:

The purpose of House Bill No. 23-17 is to provide clarity relative to the crime of promoting prison contraband.

B. Committee Findings:

Your Committee finds that the Department of Corrections (DOC) is a government correctional facility that is responsible for the confinement of incarcerated individuals. Furthermore, such facility serves for the protection of the general public and crime victims, and for the care, custody and discipline of persons convicted of offenses against the Commonwealth. Furthermore, your Committee finds that within the facility, some inmates were provided with different types of contraband (cellphones, paraphernalia, marijuana, controlled substances, dangerous weapons and so forth) by either correctional officers and/or familiar members of the general public.¹ Your Committee finds that certain contraband, especially those in the form of dangerous weapons and cellphones, can be used to threaten the safety of persons and the security of the prison. Such items, if allowed into the correctional facility, can be used as a means to threaten officers and escape from custody. Your Committee finds proper measures must be implemented to prevent and inhibit such activities from going on within the DOC.

Your Committee further finds that pursuant to 18 U.S.C. §1791, a person who provides an inmate with prohibited objects can be held criminally liable and can be prosecuted in the federal judicial system.² Your Committee also finds that within the CNMI, a DOC officer is being federally prosecuted for acts related to providing prohibited objects.³ They CNMI is currently unable to prosecute the individual due to the lack of necessary provisions to do so. Your Committee finds that such provisions are necessary to provide better protection and ensure necessary integrity within the DOC correctional facility. Furthermore, Oklahoma⁴, California⁵, Florida⁶, and other states, have implemented their own version of laws prohibiting contraband to enter into correctional facilities. Your Committee finds that it would be of utmost importance to implement similar measures as our counter parts in the United States in order to uphold the reputation and morality when running a correctional facility.

It is the intent of your Committee to remove unnecessary language and to properly insert such provisions within Title 6, Division 3, Chapter 2 of the Commonwealth Code to ensure that the proposed legislation meets the threshold of legal sufficiency. Therefore, your

¹ <https://www.saipantribune.com/index.php/bribery-charges-filed-against-former-doc-officer/>

² <https://codes.findlaw.com/us/title-18-crimes-and-criminal-procedure/18-usc-sect-1791.html>

³ Same as Footnote 1

⁴ <https://law.justia.com/codes/oklahoma/2014/title-57/section-57-21>

⁵ https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PEN§ionNum=4573.5.

⁶ <https://www.hornsby.com/crimes/obstruction/introduction-of-contraband-into-correctional-facility.html>

Committee agrees with the intent and purpose of House Bill No. 23-17 and recommends its passage in the form of House Substitute 1.

C. Public Comments/Public Hearing:

The Committee received comments from the following:

- 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 this legislation.

D. Legislative History:

House Bill No. 23-17 was introduced by Representative John Paul P. Sablan 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.

A similar legislation, namely House Bill No. 22-07, was introduced 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. The proposed legislation was placed on the Bill Calendar for disposition on October 29, 2021. On February 22, 2022, the legislation was passed by the House in the form of House Draft 1 and was transmitted to the Senate. Upon transmittal to the Senate, the legislation was referred to the Senate Standing Committee on Judiciary, Government, Law and Federal Relations for disposition. No further action was taken.

Further, another similar legislation, namely House Bill No. 21-121, was introduced on July 16, 2020 to the full body of the House and was referred to the House Standing Committee on Judiciary and Governmental Operations for disposition. No further action was taken.

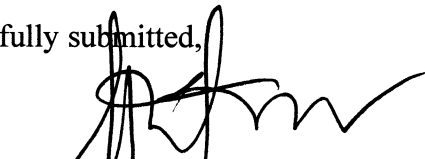
E. Cost Benefit:

The enactment of House Bill No. 23-17, HS1 will result in additional costs to the CNMI government in the form additional resources, enforcement, training necessary to implement the provisions of this Act. However, the benefits of ensuring that any form of contraband remains out of reach for all confined inmates heavily outweigh the costs.


III. CONCLUSION:

The Committee is in accord with the intent and purpose of H. B. NO. 23-17, and recommends its passage in the form of House Substitute 1.

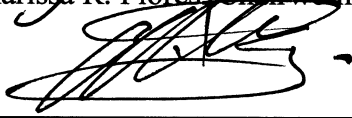
Respectfully submitted,




Rep. Marissa R. Flores, Chairwoman



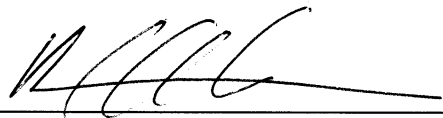
Rep. Joel C. Camacho, Vice Chair



Rep. Vincent R.S. Aldan, Member




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



Rep. Vicente C. Camacho, Member

 2/21/23


Rep. Manny G.T. Castro, Member



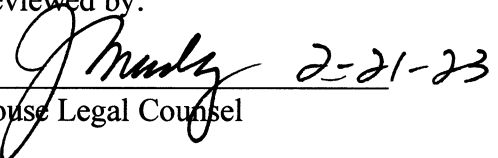
Rep. Malcolm J. Omar, Member



Rep. Edwin K. Propst, Member



Rep. John Paul P. Sablan, Member

Reviewed by:
 2-21-23

House Legal Counsel

TWENTY-THIRD NORTHERN MARIANAS COMMONWEALTH

LEGISLATURE

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 3, 2023

First Regular Session, 2023

H. B. 23-17, HS1

A BILL FOR AN ACT

To establish the crime of promoting prison contraband and appropriate punishment; and for other purposes.

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

1 **Section 1. Findings and Purpose.** The Legislature finds that contraband in
2 the CNMI prison presents many problems, including threats to the safety of persons
3 and the security of the prison. While the Department of Corrections, which handles
4 the confinement of persons, has regulations establishing a list of what items
5 constitute contraband, the Penal Code does not authorize prosecution for possession
6 of contraband.

7 Many objects, such as cell phones and cash, are easily available and used
8 outside of custody but can be used in prison to plan the commission of crimes,
9 threaten witnesses, or escape. Other objects, if altered, can be used to threaten or

1 harm persons. The listing and prohibition of contraband is designed to keep such
2 objects out of prison, thereby improving the safety and security of the facility.

3 Most jurisdictions have laws criminalizing the possession or promotion of
4 contraband in correctional facilities. Clarification in CNMI law is needed to
5 properly define what items are prohibited along with appropriate penalties for those
6 who introduce, possess and promote contraband in correctional facilities. The
7 Legislature further finds that by enacting the prison contraband statute it will
8 provide the Department of Corrections a more enforceable mandate that can deter
9 inmates, detainees, correctional officers, contractors, volunteers, and the general
10 public from possessing contraband in any of the CNMI's correctional facilities.

11 **Section 2. Amendment.** Title 6, Division 3, Chapter 2 (Offenses Against
12 the Commonwealth) of the Commonwealth Code is hereby amended by adding a
13 new section 3205 to read as follows:

14 **“§ 3205. Promoting Major or Minor Prison Contraband.**

15 (a) **Definitions.** In this section:

16 (1) “Correctional facility” means a jail, prison or other detention facility
17 used to house persons who have been arrested, detained, held, convicted
18 or sentenced by a criminal justice agency or court.

19 (2) “Major contraband” means:

- 1 (i) any firearm, ammunition, explosives or combustibles, and
2 any plans or materials that could be used in the making or
3 manufacturing of such weapons, explosives, or devices;
- 4 (ii) any dangerous device or dangerous weapon;
- 5 (iii) anything that is designed or intended to be used to facilitate
6 escape from a correctional facility or an outside assignment;
- 7 (iv) marijuana or a controlled substance in schedule I, II, III, or
8 IV, as defined in 6 CMC Chapter 1 (Commonwealth
9 Controlled Substances Act); and
- 10 (v) any telecommunications device, including any electronic
11 device or apparatus associated with a device, that can enable
12 communication with a person outside of a correctional
13 facility. The term includes, without limitation, a telephone,
14 a cellular telephone, a personal digital assistant, a
15 transmitting radio, watch or a computer that is connected to
16 a computer or cellular network or is capable of connecting
17 to a computer or cellular network through the use of wireless
18 or wired technology or is otherwise capable of
19 communicating with a person or device outside of a
20 correctional facility.

21 (3) "Minor contraband" means:

- 1 (i) an alcoholic beverage or any controlled substance in
2 schedule V, as defined in 6 CMC Chapter 1 (Commonwealth
3 Controlled Substances Act), any paraphernalia used or
4 intended for use in ingesting or consuming a controlled
5 substance; or any other drugs not included in schedules I
6 through V, except on the prescription of a licensed
7 practitioner;
- 8 (ii) any United States or foreign currency;
- 9 (iii) any peripheral device that stores data digitally,
10 mechanically, optically, or using flash memory; and
- 11 (iv) any other object listed in Department of Corrections rules
12 and regulations as contraband and not defined as major
13 contraband by this section.
- 14 (b) A person commits an offense if the person knowingly:
- 15 (1) Provides or attempts to provide major or minor contraband to a person
16 in custody in a correctional facility, on the grounds of a correctional
17 facility, or during an outside assignment; or
- 18 (2) While in custody, makes, possesses, or obtains, or attempt to make,
19 possess or obtain major or minor contraband in a correctional facility, on
20 the grounds of a correctional facility, or during an outside assignment.

1 (c) A conviction for the promotion of major contraband shall be punishable by
2 a term of imprisonment of not more than four years, a fine of not more than \$1,500,
3 or both.

4 (d) A conviction for the promotion of minor contraband shall be punishable by
5 a term of imprisonment of not more than one year, a fine of not more than \$1,000,
6 or both.

7 (e) The court shall order any sentence of imprisonment for this offense to run
8 consecutive to any other sentence the person is serving at the time of the offense.”

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

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

21 **Section 5. Effective Date.** This Act shall take effect upon its approval by

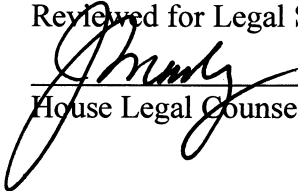
1 the Governor, or its becoming law without such approval.

Prefiled: 2/3/2023

Date: 2/3/2023

Introduced by: /s/ Rep. John Paul P. Sablan

Reviewed for Legal Sufficiency by:

 2-14-23
House Legal Counsel