



# 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

*Recomm. J - 3/29/2022*  
STANDING COMMITTEE REPORT NO. 22-40  
DATE: FEBRUARY 25, 2022  
RE: H.B. 22-04

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. 22-04:

“To amend the Department of Public Safety’s time period to produce police traffic and criminal investigation reports from 10 days to 3 days.”

begs leave to report as follows:

**I. RECOMMENDATION:**

After considerable discussion, your Committee recommends that the House file H. B. No. 22-04.

**II. ANALYSIS:**

**A. Purpose:**

The purpose of House Bill No. 22-04 is to amend the Department of Public Safety’s time period to produce police traffic and criminal investigation reports from 10 days to 3 days.

HOUSE CLERK'S OFC  
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DATE 03/15/22 TIME 1:43 pm

B. Committee Findings:

Your Committee finds that House Bill 22-04 intends to amend the time period for the Department of Public Safety (DPS) Police Officers to produce written reports from ten days to three days after investigation, unless an extension is requested. Furthermore, it also intends to provide a penalty for officers who fail to comply with such deadlines. Your Committee finds that the time period proposed by such legislation is insufficient. In the investigation of criminal activities and traffic accidents, the police officer will need time to interview witnesses, reconstruct the accident, obtain medical records, and gather other evidence or information. In cases that involve serious injury or death, additional time in producing such reports is highly necessary. Your Committee finds that this requirement will add an additional strain on the hardworking police officers.

Your Committee also finds that the suspension penalty for police officers who fail to comply is extreme and counterproductive. In the event that an officer does get suspended for failing to meet the deadline on a report, the workload he/she leaves behind will continue to pile up. When an officer gets suspended, the prosecution of such cases becomes more problematic. It is in the best interest of the CNMI to allow for the current time period of ten days to remain. If the production of written reports become problematic, DPS has the authority to address such concerns from an administrative standpoint. Your Committee feels that it would be inappropriate to interfere with DPS' affairs regarding reports of vehicular accidents and/or criminal activity. Therefore, your Committee recommends that the House file House Bill 22-04.

C. Public Comments:

The Committee received comments from the following:

- Mr. Robert A. Guerrero, Commissioner, Department of Public Safety
- Honorable Edward Manibusan, Attorney General, CNMI Office of the Attorney General
- Ms. Frances Torres-Salas, Director, Office of Personnel Management

D. Legislative History:

House Bill No. 22-04 was introduced by Representative Joseph A. Flores 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.

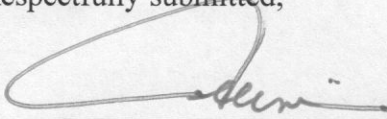
E. Cost Benefit:

The Committee intends to file House Bill 22-04.

**III. CONCLUSION:**

The Committee recommends that the House file H. B. No. 22-04.

Respectfully submitted,



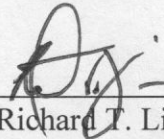
Rep. Celina R. Babauta, Chairperson



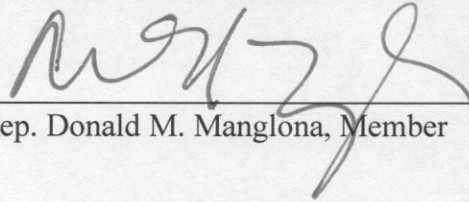
Rep. Blas Jonathan "BJ" T. Attao, Vice Chair



Rep. Vicente C. Camacho, Member



Rep. Richard T. Lizama, Member

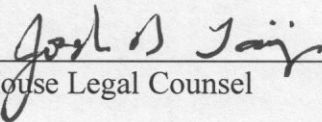


Rep. Donald M. Manglona, Member

Rep. Christina M.E. Sablan, Member

Rep. Edwin K. Propst, Member

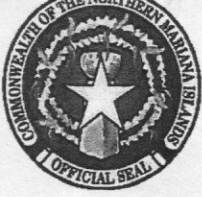
Reviewed by:



House Legal Counsel

Attachments:

- Letter dated July 23, 2021 from the Commissioner of DPS;
- Letter dated April 16, 2021 from the CNMI Attorney General; and
- Letter dated February 25, 2022 from the Director of the Office of Personnel Management.



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS  
**DEPARTMENT OF PUBLIC SAFETY**



Ralph DLG. Torres  
Governor

Arnold I. Palacios  
Lieutenant Governor

Robert A. Guerrero  
Commissioner

July 23, 2021

The Honorable Celina Babauta  
Chairwoman, House Standing Committee on Judiciary &  
Government Operations  
The House of Representatives  
22nd Northern Mariana Commonwealth Legislature  
Capitol Hill  
Saipan, MP 96950

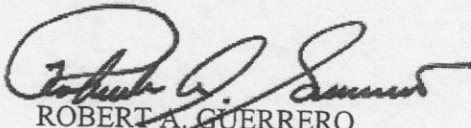
Ref. Comment on H.B. 22-3, H.B. 22-4, H.B. 22-40 & H.B. 22-41

Dear Representative Babauta:

Thank you for the opportunity to comment on H.B. H.B. 22-3 "To amend 9 CMC §2101 (d) by requiring the motor vehicle liability insurance expiration to be consistent with the vehicle registration expiration; and for other purposes", H.B. 22-4 "To amend the Department of Public Safety's time period to produce police traffic and criminal investigation reports from 10 days to 3 days.", H.B. 22-40 "To establish provisions for jaywalking; and for other purposes." and H.B. 22-41 "To amend 9 CMC §8209 by removing the seven-day grace period for motorist who violate 9CMC §§8203 and 8204: and for other purposes.". The department fully supports the purpose and intent of H.B. 22-4, H.B. 22-40 and H.B. 22-41. The department however, does not have a position on H.B. 22-3.

Should you have any questions, please do not hesitate to let us know. Again, thank you for this opportunity to comment on this important legislation.

Sincerely,

  
ROBERT A. GUERRERO  
Commissioner of Public Safety



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.

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**Criminal Division**  
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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.

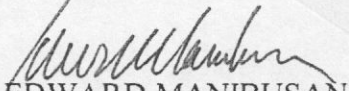
**HB 22-20 (Enhanced CPA police authority)**

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





JAKE MARATITA  
Chairperson, CSC

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

**CIVIL SERVICE COMMISSION**

**OFFICE OF PERSONNEL MANAGEMENT**

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Frances Torres-Salas  
Director of Personnel

February 25, 2022

Representative Celina R. Babauta  
Chairperson  
Judiciary & Governmental Operations Committee  
Twenty-Second Northern Marianas Commonwealth Legislature  
Saipan, MP 96950

***Subject: Comments on House Bill # 22-04***

Dear Representative Babauta and Committee Members,

Thank you for the opportunity to provide comments on HB# 22-04.

***“To amend the Department of Public Safety’s time period to produce police traffic and criminal investigation reports from 10 days to 3 days.”***

While I understand the overall intent of this, I do not agree with certain provisions that affect a government employee’s performance. The Civil Service Commission is the sole authority when it comes to civil servants. In this case, the bill refers to police officers from the Department of Public Safety.

I recommend to extract or remove Section 3, subsection 101 (b) of this House Bill. Under the Northern Marianas Administrative Code (NMIAC) subsection 10-20.2-257 and the Personnel Service System Rules and Regulations (PSSR&R) Disciplinary Action Police & Procedure Guidelines provide for situations where employees do not perform to the standards required. The untimely submission of a DPS investigative criminal report or vehicle incident report would fall under the listed offense of ***Personal Performance/Conduct***; noncompliance with employment standards, policies, regulations, or government instructions in the employment process. This provision of the regulations would address the employee’s non-compliance or violations of the standard code of conduct as well as the performance standards.

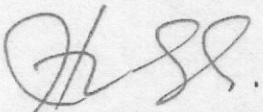
There are a few points that I would like to include in this submission:

- This House Bill only addresses Department of Public Safety law enforcement officers. There are other law enforcement personnel to include Customs and Quarantine Officers, the Alcohol Beverage Tobacco Control Officers and Conservations Officers.

Perhaps an amendment to this House Bill could include all enforcement agencies overall for consistency purposes.

- The House Bill recommends a penalty upon the officer of a suspension for a period of not more than 3 days. So the thought on this is that, what if the officer is a repeat offender? How many times would that officer be suspended?
- The House Bill should consider the severity of the incident. A criminal investigation could possibly take longer than a vehicle incident.

Overall, I do not support HB 22-04.



**FRANCES TORRES-SALAS**

Director, Office of Personnel Management

cc: Members, Civil Service Commission

TWENTY-SECOND NORTHERN MARIANAS COMMONWEALTH  
LEGISLATURE

IN THE HOUSE OF REPRESENTATIVES

\_\_\_\_\_ Session, 2021

H. B. 22-\_\_\_\_\_

4

A BILL FOR AN ACT

To amend the Department of Public Safety's time period to produce police traffic and criminal investigation reports from 10 days to 3 days.

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

1           **Section 1. Findings and Purpose.** The Commonwealth Legislature finds  
2   that an officer who investigates a crime or vehicle accident as to which a report is  
3   required by law, or who otherwise prepares a written report shall forward a written  
4   report to the bureau within 10 days of the start of the investigation. This period of  
5   time is usually too lengthy and may permit unnecessary delays. Accordingly, the  
6   purpose of this legislation is to require that the Department of Public Safety produce  
7   required reports within 3 days unless there is a written request to extend this time  
8   period for good cause.

1           **Section 2. Amendment.** 9 CMC § 6105 (a) of the Commonwealth Code is  
2 hereby amended to be read as follows:

3                           **“§ 6105. Police to Report.**

4                           (a) Every department officer who investigates a vehicle accident as  
5 to which a report is required by this division, or who otherwise prepares a  
6 written report as a result of an investigation either at the time of and at the  
7 scene of the accident or thereafter by interviewing the participants or  
8 witnesses, shall forward a written report of the accident to the ~~bureau~~ DPS  
9 Firearms & Records Section within ~~10~~ 3 days after the investigation of the  
10 accident unless an extension is requested in writing and supported by good  
11 cause”

12           **Section 3. Enactment.** Subject to codification by the CNMI Law Revision  
13 Commission the following provision is hereby enacted into law:

14                           **“§ 101. Police to Report-Generally.**

15                           (a) Every department officer who investigates as required by law, or  
16 who otherwise prepares a written report as a result of an investigation either  
17 at the time of, or at the scene of the alleged crime or accident or thereafter  
18 by interviewing the participants or witnesses, shall forward a written report  
19 to the DPS Firearms & Records Section within 3 days after the investigation  
20 concludes unless an extension is requested in writing and supported by good  
21 cause.

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1 (b) An officer who fails to provide a written report within 3 days or  
2 within the time allotted by an extension that was requested in writing,  
3 supported by good cause, and granted by the officer's supervising officer,  
4 shall be penalized by a suspension without pay for a period of not more than  
5 3 days for the responsible officer and his/her supervising officer."

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: Jan. 20, 2021

Date: \_\_\_\_\_

Introduced by: \_\_\_\_\_

Rep. Rep. Joseph A. Flores

Reviewed for Legal Sufficiency by:

Joseph D. Day  
House Legal Counsel