

TWENTY-SECOND NORTHERN MARIANAS COMMONWEALTH

LEGISLATURE

IN THE HOUSE OF REPRESENTATIVES

_____ Session, 2022

H. B. 22- 104

A BILL FOR AN ACT

To amend Title 1, Division 8 of the Commonwealth Code by adding a new Chapter to enact provisions associated with public corruption, official misconduct, other unlawful influence and related offenses for public officials; and for other purposes.

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

1 **Section 1. Short Title.** This Act shall be cited as the “CNMI Public Servant
2 Anti-Corruption Act of 2022”.

3 **Section 2. Findings and Purpose.** The Legislature finds that public service
4 is a privilege entrusted to certain individuals, commonly referred to as public
5 servants and/or public officials, to provide service to all members of the
6 community. Cognizant of such an honorable privilege, these individuals, whether
7 elected or appointed, are regarded in the highest esteem as they are intended to
8 serve for the common good of the general population. The Legislature further finds
9 that as public servants/public officials, they must be held to a standard
10 commensurate to the high esteem in which they are held. In essence, it is the intent
11 of this legislation to provide a more stringent penalty for public servants/public
12 officials and involved parties for committing acts of corruption, such as bribery,

1 unlawful influence, use of information for private gain, official misconduct, and so
2 forth. These deplorable acts are a complete and utter betrayal of the public's trust
3 and must be punished accordingly.

4 Therefore, the purpose of this Act is to amend Title 1, Division 8 of the
5 Commonwealth Code by adding a new Chapter to enact provisions associated with
6 public corruption, official misconduct, other unlawful influence and related
7 offenses for public officials and for other purposes.

8 **Section 3. Amendment.** Subject to codification by the CNMI Law Revision
9 Commission, Title 1, Division 8 is hereby amended by adding a new Chapter to
10 read as follows:

11 **“CHAPTER XX. CNMI Public Servant Anti-Corruption Act.**

12 **§ 101. Definitions.**

13 As used in this Chapter:

14 (a) “Benefit” means any gain or advantage, or anything regarded by the
15 beneficiary as gain or advantage, including a benefit to any other person
16 or entity in whose welfare the beneficiary is interested other than the
17 beneficiary's lawful compensation.

18 (b) “Official function” means any decision, opinion, recommendation, vote
19 or other exercise of discretion or performance of duty of a public servant
20 in a lawful or unlawful manner.

1 (c) "Pecuniary benefit" means benefit in the form of money, property,
2 commercial interests, or anything else the primary significance of which
3 is economic gain.

4 (d) "Public contractor" means any person who has entered a contract with
5 a government entity, or any officer or employee of a person who has
6 entered a contract with a government entity.

7 (e) "Public servant" or "Public Official" means any officer, member, or
8 employee of the legislative, executive, or judicial branches of the
9 Commonwealth or of any governmental instrumentality of the
10 Commonwealth, any juror, any persons exercising the functions of any
11 such position, or any referee, arbitrator, hearing officer, or other person
12 authorized by law to hear or determine any question or controversy. It
13 includes a person who has been elected, appointed, or designated to
14 become a public servant/official, and, in the case of a juror, a person
15 who has been drawn, empaneled, or designated to attend as a
16 prospective grand or petit juror.

17 **§ 102. Giving of Bribes to a Public Servant; Defined and Penalty.**

18 (a) Notwithstanding any laws, provisions or regulations to the contrary, a
19 person is punishable by imprisonment for any term of not more than 5
20 years or less than 1 year if he/she offers, confers upon, or agrees to

1 confer upon a public servant any benefit as consideration for his/her
2 performance of an official function.

3 (b) In addition to any other penalty imposed by the court upon conviction,
4 any public servant convicted of a crime pursuant to § 102 shall also be
5 punished by a fine of not less than Ten Thousand Dollars (\$10,000.00)
6 and not more than Fifty Thousand Dollars (\$50,000.00).

7 **§103. Receiving and Giving Bribes from a Public Servant; Defined and**
8 **Penalty; Building Inspectors.**

9 (a) Notwithstanding any laws, provisions or regulations to the contrary, a
10 public servant/public official is punishable by imprisonment for any
11 term of not more than 3 years or less than 1 year if he/she solicits,
12 accepts, or agrees to accept any benefit from another person as
13 consideration for his/her performance of an official function; provided,
14 however, that if such public servant is a building inspector, performing
15 in his/her capacity as a building inspector, under the CNMI Building
16 Safety Code pursuant to 2 CMC § 7101 et seq., he/she is punishable by
17 imprisonment for any term of not more than 5 years or less than 1 year.
18 A person is punishable by imprisonment for any term of not more than
19 5 years or less than 1 year if he/she offers or agrees to offer any benefit
20 to a public servant as consideration for such public servant's
21 performance of an official function.

1 (b) In addition to any other penalty imposed by the court upon conviction,
2 any person convicted of a crime pursuant to § 103 shall also be punished
3 by a fine of not less than Ten Thousand Dollars (\$10,000.00) and not
4 more than Fifty Thousand Dollars (\$50,000.00).

5 **§104. Unlawful Influence; Defined and Penalty.**

6 Notwithstanding any laws, provisions or regulations to the contrary, a
7 person is punishable by imprisonment for any term of not more than 2 years
8 or less than 1 year if:

9 (a) he/she offers, confers upon, or agrees to confer upon, another person
10 any benefit as consideration for improperly influencing or attempting to
11 influence a public servant in the performance of an official function.

12 (b) He/she solicits, accepts, or agrees to accept any benefit from another
13 person as consideration for improperly influencing or attempting to
14 influence a public servant/public official in the performance of an
15 official function.

16 In addition to any other penalty imposed by the court upon conviction, any
17 person convicted of a crime pursuant to §104 shall also be punished by a
18 fine of not less than Ten Thousand Dollars (\$10,000.00) and not more than
19 Fifty Thousand Dollars (\$50,000.00).

20 **§ 105. Unlawful Influence by Extortion of a Public Servant; Defined**
21 **and Penalty.**

1 (a) Notwithstanding any laws, provisions or regulations to the contrary, a
2 person is punishable by imprisonment for any term of not more than 2
3 years or less than 1 year if he/she influences or attempts to influence the
4 performance of an official function by a public servant by any threat
5 which would constitute a means of committing the offense of theft by
6 extortion under this Code if such threat were employed to obtain
7 property.

8 (b) In addition to any other penalty imposed by the court upon conviction,
9 any person convicted of a crime pursuant to § 104 shall also be punished
10 by a fine of not less than Ten Thousand Dollars (\$10,000.00) and not
11 more than Fifty Thousand Dollars (\$50,000.00).

12 **§ 106. Giving Gratuities for Past Services to a Public Servant; Defined**
13 **and Penalty.**

14 (a) Notwithstanding any laws, provisions or regulations to the contrary, a
15 person is guilty of a misdemeanor if he/she offers, confers upon, or
16 agrees to confer upon, a public servant/public official any pecuniary
17 benefit for having performed an official function in a manner favorable
18 to him/her, or having violated his/her duty.

19 (b) In addition to any other penalty imposed by the court upon conviction,
20 any person convicted of a crime pursuant to § 106 shall also be punished

1 by a fine of not less than One Thousand Dollars (\$1,000.00) and not
2 more than Ten Thousand Dollars (\$10,000.00).

3 **§ 107. Accepting Gratuities for Past Services from a Public Servant;**
4 **Defined and Penalty.**

5 (a) Notwithstanding any laws, provisions or regulations to the contrary, a
6 public servant/public official is guilty of a misdemeanor if he/she
7 solicits, accepts, or agrees to accept any pecuniary benefit for having
8 performed an official function in a manner favorable to another person,
9 or having violated his/her duty.

10 (b) In addition to any other penalty imposed by the court upon conviction,
11 any person convicted of a crime pursuant to § 106 shall also be punished
12 by a fine of not less than One Thousand Dollars (\$1,000.00) and not
13 more than Ten Thousand Dollars (\$10,000.00).

14 **§ 108. Use of Information for Private Gain by a Public Servant; Defined**
15 **and Penalty.**

16 Notwithstanding any laws, provisions or regulations to the contrary, a public
17 servant/public official is punishable by imprisonment for any term of not
18 more than 2 years or less than 1 year if, in contemplation of official action
19 by himself/herself or by a governmental unit with which he/she is
20 associated, or in reliance of information to which he/she has or has had

1 access in his/her official capacity, and which has not been made public
2 he/she:

3 (a) Acquires or divests himself of a pecuniary interest in any
4 property, transaction or enterprise which may be affected by such
5 information or official action;

6 (b) Speculates or wagers on the basis of such information or official
7 action; or

8 (c) Aids another to do any of the foregoing, while in office or after
9 leaving office with the intent of using such information.

10 In addition to any other penalty imposed by the court upon conviction, any
11 person convicted of a crime pursuant to § 108 shall also be punished by a
12 fine of not less than Ten Thousand Dollars (\$10,000.00) and not more than
13 Fifty Thousand Dollars (\$50,000.00).

14 **§ 109. Official Misconduct of a Public Servant; Defined and Penalty.**

15 Notwithstanding any laws, provisions or regulations to the contrary, a public
16 servant/public official is punishable by imprisonment for any term of not
17 more than 2 years or less than 1 year if with the intent to benefit
18 himself/herself or another person or to harm another person or to deprive
19 another person of a benefit:

1 (a) He/she commits an act of relating to his office but constituting an
2 unauthorized exercise of his official functions, knowing that such
3 act is unauthorized;

4 (b) He/she knowingly refrains from performing a duty which is
5 imposed upon him/her by law or is clearly inherent in the nature
6 of his/her office;

7 (c) He/she falsifies, or causes another person to falsify, any official
8 record or official document;

9 (d) He/she conceals, covers up, destroys, mutilates, or alters any
10 official record or official document, except as authorized by law
11 or contract, or causes another person to perform such an act; or

12 (e) He/she obstructs, delays, or prevents the communication of
13 information relating to the commission of a felony that directly
14 involves or affects the government entity served by the public
15 servant/public official or public contractor.

16 In addition to any other penalty imposed by the court upon conviction, any
17 person convicted of a crime pursuant to § 109 shall also be punished by a fine
18 of not less than Ten Thousand Dollars (\$10,000.00) and not more than Fifty
19 Thousand Dollars (\$50,000.00).

20 **§ 110. Bid Tampering by a Public Servant and/or a Public Contractor.**

- 1 (a) It is unlawful for a public servant/public official or a public contractor
2 who has contracted with a governmental entity to assist in a competitive
3 procurement to knowingly and intentionally influence or attempt to
4 influence the competitive solicitation undertaken by any governmental
5 entity for the procurement of commodities or services, by:
- 6 (1) Disclosing, except as authorized by law, material information
7 concerning a vendor's response, any evaluation results, or other
8 aspects of the competitive solicitation when such information
9 is not publicly disclosed.
- 10 (2) Altering or amending a submitted response, documents or other
11 materials supporting a response, or any evaluation results
12 relating to the competitive solicitation for the purpose of
13 intentionally providing a competitive advantage to any person
14 who submits a response.
- 15 (b) It is unlawful for a public servant/public official or public contractor
16 who has contracted with a governmental entity to assist in a competitive
17 procurement to obtain a benefit knowingly and intentionally for any
18 person or to cause unlawful harm to another person by circumventing a
19 competitive solicitation process required by law or rule using a sole-
20 source contract for commodities or services.

- 1 (c) It is unlawful for any person to knowingly agree, conspire, combine, or
2 confederate, directly or indirectly, with a public servant/public official
3 or public contractor who has contracted with a governmental entity to
4 assist in a competitive procurement to violate § 110(a) and § 110(b) of
5 this Chapter.
- 6 (d) It is unlawful for any person to knowingly enter a contract for
7 commodities or services which was secured by a public servant/public
8 official or a public contractor who has been contracted with a
9 governmental entity to assist in a competitive procurement acting in
10 violation of § 110(a) and § 110(b) of this Chapter.
- 11 (e) A person is punishable by imprisonment for any term of not more than
12 2 years or less than 1 year if they breach any of the violations pursuant
13 to § 110. In addition to any other penalty imposed by the court upon
14 conviction, any person convicted of a crime pursuant to § 110 shall also
15 be punished by a fine of not less than Ten Thousand Dollars
16 (\$10,000.00) and not more than Fifty Thousand Dollars (\$50,000.00).

17 **§ 111. Disclosure or Use of Confidential Criminal Justice Information**
18 **by a Public Servant.**

19 Notwithstanding any laws, provisions or regulations to the contrary,
20 it is unlawful for a public servant/public official, with the intent to obstruct,
21 impede, or prevent a criminal investigation or a criminal prosecution, to

1 disclose active criminal investigative or intelligence information or to
2 disclose or use information regarding either the efforts to secure or the
3 issuance of a warrant, subpoena, or other court process or court order
4 relating to a criminal investigation or criminal prosecution when such
5 information is not available to the general public and is gained by reason of
6 the public servant's/public official's official position. Any person who
7 violates this section is punishable by imprisonment for any term of not more
8 than 2 years or less than 1 year. In addition to any other penalty imposed by
9 the court upon conviction, any person convicted of a crime pursuant to §
10 111 shall also be punished by a fine of not less than Ten Thousand Dollars
11 (\$10,000.00) and not more than Fifty Thousand Dollars (\$50,000.00).

12 **§ 112. Restitution and Community Service.**

13 Notwithstanding any laws, provisions or regulations to the contrary, a
14 person who is convicted of any offense in this Chapter shall be ordered by
15 the sentencing judge to make restitution to the victim of the offense if, after
16 conducting a hearing, the judge finds that the victim suffered and actual
17 financial loss caused directly or indirectly by the person's offense or an
18 actual financial loss related to the person's criminal episode. A person who
19 is convicted of any offense in this Chapter shall also be ordered to perform
20 no less than two hundred fifty (250) hours of community service work.

1 Restitution and community service work shall be in addition to any fine or
2 sentence that may be imposed and shall not be in lieu thereof.”

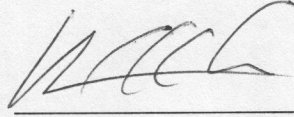
3 **Section 4. Severability.** If any provision of this Act or the application of
4 any such provision to any person or circumstance should be held invalid by a court
5 of competent jurisdiction, the remainder of this Act or the application of its
6 provisions to persons or circumstances other than those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

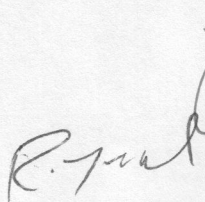
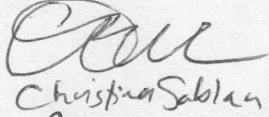
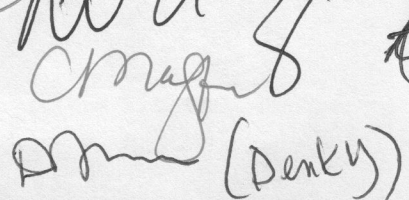
8 **Section 5. Savings Clause.** This Act and any repealer contained herein
9 shall not be construed as affecting any existing right acquired under contract or
10 acquired under statutes repealed or under any rule, regulation or order adopted
11 under the statutes. Repealers contained in this Act shall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

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

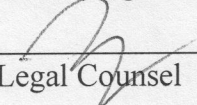
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Prefiled: 6/9/2022

Date: 6/9/2022 Introduced by: 
Rep. Vicente C. Camacho

Reviewed for Legal Sufficiency by:



House Legal Counsel