

**TWENTY-SECOND NORTHERN MARIANAS COMMONWEALTH
LEGISLATURE**

IN THE HOUSE OF REPRESENTATIVES

Session, 2021

H. B. 22- 36

A BILL FOR AN ACT

To repeal and reenact 6 CMC §4115 to provide better clarity for trial courts to impose sentences.

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

1 **Section 1. Findings.** The Legislature finds that the current language of 6
2 CMC §4115 sets out a vague standard for trial courts to impose sentences. The
3 Supreme Court has used that unclear language to impose, in a long series of cases,
4 subjective review standards that interfere with a trial court's discretion to decide
5 what weight to assign various factors in determining a proper sentence. See
6 Commonwealth v. Martin (attached). The CNMI Supreme Court cases seek to copy
7 the more elaborate federal system, which has a very different and specific set of
8 written guidelines. The vague language has led to constant litigation and a lack of
9 clarity in how a trial court shall go about imposing a sentence. As the Supreme
10 Court has noted, only the Legislature can clarify whether such individualized
11 sentencing review should be altered. Therefore, this bill makes it clear that the trial
12 court has sole discretion in evaluating the facts and deciding a sentence. The bill

1 also clarifies that the trial court's decision regarding the weight of the evidence at
2 sentencing is not subject to a subjective reasonableness standard on appellate
3 review. Any procedural defects continue to be subject to appellate review.

4 **Section 2. Repeal and Reenactment.** 4 CMC §4115 is hereby repealed and
5 reenacted to read as follows:

6 **“§ 4115. Sentencing.**

7 The court shall have discretion to impose any sentence permitted within the
8 range established by law. The court may consider any matter relevant to
9 sentencing, including but not limited to the defendant's prior criminal
10 record, reputation, and character, the circumstances of the offense, and
11 extraneous bad acts proven by a preponderance of the evidence. The court
12 shall have sole discretion on deciding the weight of any matter relevant to
13 sentencing and need not make specific findings as to sentencing factors. A
14 trial court's decision on sentencing is not subject to review, unless it
15 involves an alleged preserved constitutional or procedural defect. Such
16 defect must be preserved by a timely, specific objection.”

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

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

8 **Section 5. Effective Date.** This Act shall take effect upon its approval by
9 the Governor, or its becoming law without such approval.

Prefiled: 3/11/2021

Date: 3/11/2021

Introduced by:



Rep. Celina R. Babauta

Reviewed for Legal Sufficiency by:

Josh D. Jay
House Legal Counsel