

TWENTY-SECOND NORTHERN MARIANAS COMMONWEALTH

LEGISLATURE

IN THE HOUSE OF REPRESENTATIVES

_____ Session, 2021

H. B. 22- 97

A BILL FOR AN ACT

To amend Title 6, Division 3, Chapter 2 of the Commonwealth Code by establishing a penalty provision for criminal defendants who fail to appear in court on their scheduled date.

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

1 **Section 1. Findings.** The Legislature finds that the CNMI Penal Code does
2 not currently criminalize a criminal defendant's failure to appear in court after
3 being release from custody or notified of formal charges by service of a summons.
4 A failure to appear currently, at best, generates a bench warrant and re-arrest.
5 Numerous criminal defendants, recognizing that there is little consequence for
6 ignoring a court order to appear, disappear or repeatedly fail to appear in court. This
7 process results in substantial wasted court time, tremendous resources focused on
8 relocating a defendant and numerous resets for hearings. Many criminals become
9 fugitives and just disappear off the docket.

10 The Legislature further finds that most jurisdictions criminalize the failure
11 to appear and grade the punishment based on the seriousness of the original offense.
12 This bill creates the offense of failure to appear, establishes an affirmative defense

1 of reasonable excuse and sets the punishment consistent with a misdemeanor or
2 felony offense, depending on the original charge.

3 **Section 2. Amendment.** Title 6, Division 3, Chapter 2 of the
4 Commonwealth Code is hereby amended by adding a new section 3205 to read as
5 follows:

6 **“§ 3205. Failure to Appear.**

7 (a) A person lawfully released from custody, with or without bail, on condition
8 that he subsequently appear in court or a person lawfully served with a
9 citation or summons to appear commits an offense if he knowingly fails to
10 appear in accordance with the terms of release or summons.

11 (b) It is an affirmative defense to prosecution under this section that the actor
12 had a reasonable excuse for the failure to appear in accordance with the
13 terms of release or citation or summons. Such an affirmative defense is
14 available only if the person filed with the court an affidavit detailing the
15 reasonable excuse and appeared in court within 30 days of the initial failure
16 to appear.

17 (c) Except as provided in Subsection (d), an offense under this section is
18 punishable by up to one year confinement, a \$1,000 fine, or both.

19 (d) An offense is punishable by up to five years confinement, a fine of up to
20 \$5,000 or both, if the offense for which the actor’s appearance was required
21 is punishable by more than one year confinement.

1 (e) Notice to appear may be delivered orally or in writing. Delivery of a citation
2 or return of service of a summons is presumptive proof of notice.”

3 **Section 3. Severability.** If any provisions 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 4. 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 the 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 on the date this Act becomes effective.

15 **Section 5. Effective Date.** This Act shall take effect upon its approval by
16 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 Day
House Legal Counsel