

REFERRED TO: JEW - 2/6/2023
HOUSE

TWENTY-THIRD NORTHERN MARIANAS COMMONWEALTH

LEGISLATURE

IN THE HOUSE OF REPRESENTATIVES

February 3, 2023

FIRST REG. Session, 2023

H. B. 23- 17

A BILL FOR AN ACT

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.

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

1 **Section 1. Findings and Purpose.** The Legislature finds that correctional
2 facilities require more stringent regulations regarding what items can and cannot be
3 brought into the facility. Unfortunately, current CNMI law regarding prison
4 contraband is quite antiquated, and does not take into account the current needs of
5 the Department of Corrections to properly secure its facilities. Clarification in the
6 law is needed to properly define what items are prohibited along with appropriate
7 penalties for those who introduce, possess and promote contraband in correctional
8 facilities. The Legislature further finds that by enacting the prison contraband
9 statute it will provide the Department of Corrections a more enforceable mandate
10 that can deter inmates, detainees, correctional officers, contractors, volunteers, and

1 the general public from possessing contraband in the any of CNMI's correctional
2 facilities.

3 Therefore, the purpose of this Act is to provide clarity relative to the crime
4 of promoting prison contraband.

5 **Section 2. Enactment.** Subject to codification by the Commonwealth Law
6 Revision Commission, the following is hereby enacted and read as follows:

7 **“§ XX. Promoting Prison Contraband.**

8 (a) As used in this section:

9 (1) “Contraband” means:

10 (A) Money, as defined as notes or coins; or

11 (B) Alcoholic beverage or other intoxicants; or

12 (C) Tobacco and related products; or

13 (D) Any item or article not authorized by the Department of
14 Corrections regulations or statute, or in excess of the maximum
15 quantity permitted, or which is received or obtained from an
16 unauthorized source; or

17 (E) Any item or article of property that poses a serious threat
18 to the security of an institution and ordinarily would never be
19 approved for possession or admission into the institution, and any
20 item or article which may be, or has been authorized for possession
21 at one time, but now is prohibited for possession due to health, fire,

1 or safety concerns, provided that reasonable notice is given that the
2 item or article that was previously authorized for possession is now
3 prohibited; or

4 (F) Any authorized property that has been altered for an
5 unlawful or unauthorized purpose.

6 (2) "Major contraband" means:

7 (A) Any controlled substance as defined in 6 CMC §2102
8 (c) of the Commonwealth Code. Any other controlled substance,
9 drug paraphernalia, or dangerous drug, except on the prescription of
10 a licensed practitioner.

11 (B) Any firearm, deadly weapon, or dangerous weapon
12 including explosives or combustibles, facsimile of a weapon,
13 training materials, or any plans or materials that may be used in the
14 making or manufacturing of such weapons, explosives or devices.

15 (C) Any telecommunications device means any electronic
16 device, or an apparatus associated with a device, that can enable
17 communication with a person outside of a correctional facility. The
18 term includes, without limitation, a telephone, a cellular telephone,
19 a personal digital assistant, a transmitting radio, watch or a computer
20 that is connected to a computer or cellular network, is capable of
21 connecting to a computer or cellular network through the use of

1 wireless or wired technology or is otherwise capable of
2 communicating with a person or device outside of a correctional
3 facility. An electronic device is any instrument or equipment that
4 has the capability of transmitting, receiving, or recording messages,
5 images, sounds, data, or other information by electronic means.

6 (D) Any peripheral device that can store data digitally,
7 mechanically, optically, or using flash memory. Excluded from
8 these definitions is any device that has been approved by the
9 Department of Corrections Commissioner or designee for
10 investigative or institutional security purposes or for conducting
11 other official business.

12 (E) Any object, information, or instrument intended or
13 reasonably likely to be used in the planning or aiding in an escape
14 or attempted escape from a correctional facility.

15 (3) "Person(s) in custody" means:

16 (A) The confinement, detention or imprisonment of a person.

17 (b) No person, including a person in custody as defined by this
18 Chapter, except as authorized by law or with permission of the
19 Commissioner or designee, shall knowingly:

20 (A) Introduce, or attempt to introduce, contraband into a
21 correctional facility or the grounds of a detention correctional facility; or

1 (B) Convey, or attempt to convey, contraband to a prisoner confined
2 in a detention correctional facility or on outside assignment; or

3 (C) Possess, or attempt to possess, contraband within a detention
4 correctional facility or an outside assignment; or

5 (D) Receive, obtain or remove, or attempt to receive, obtain or
6 remove, contraband from a detention correctional facility.

7 Any person, including a person in custody, who violates any provision of
8 this subsection shall be guilty of a misdemeanor, and on conviction thereof
9 shall be punished by a sentence of imprisonment for a period of no less than
10 thirty (30) days and no more than one (1) year and or by a fine of no less
11 than five hundred dollars (\$500), or by such minimum sentence of
12 imprisonment and fine.

13 (c) No person, including a person in custody as defined by this
14 Chapter, except as authorized by law or with permission of the
15 Commissioner or designee, shall knowingly:

16 (A) Introduce, or attempt to introduce, major contraband into any
17 correctional facility; or

18 (B) Convey, or attempt to convey, major contraband to a prisoner
19 confined in a correctional facility or on outside assignment; or

20 (C) Possess, or attempt to possess, major contraband within a
21 detention correctional facility or on outside assignment; or

1 (D) Receive, obtain or remove, or attempt to receive, obtain or
2 remove, major contraband from a detention correctional facility.
3 Any person, including a person in custody, who violates any provision of
4 subsection (c) of this section shall be guilty of a felony in the second degree
5 and on conviction shall be punished by a sentence of imprisonment for a
6 period of no less than three (3) years and no more than five (5) years or by
7 a fine of no less than five thousand dollars (\$5000), or by both such
8 minimum sentence of imprisonment and fine. Any person in custody
9 convicted of a violation of any provision of subsections (b) or (c) of this
10 section, sentence for this violation to be run consecutively to any current
11 sentence(s). Any correctional officer or staff of the Department of
12 Corrections convicted of a violation of any provision of the subsections (b)
13 or (c) of this section, shall be subject to immediate termination. Any
14 correctional officer or staff of the Department of Corrections convicted of a
15 violation of any provision of subsection (b) of this section, shall not be
16 eligible for rehire for a period of no less than three (3) years. Any
17 correctional officer or staff of the Department of Corrections convicted of a
18 violation of any provision of subsection (c) of this section, shall not be
19 eligible for rehire indefinitely. Any contractor or volunteer convicted of a
20 violation of any provision of subsections (b) or (c) of this section, shall be
21 subject to termination from entry into any CNMI correctional facility and

1 contractor or volunteer status shall be rescinded indefinitely.”

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

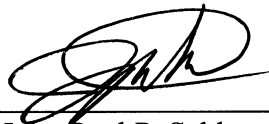
7 **Section 4. Savings Clause.** This Act and any repealer contained herein
8 shall not be construed as affecting any existing right acquired under contract or
9 acquired under statutes repealed or under any rule, regulation, or order adopted
10 under the statutes. Repealers contained in this Act shall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

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

Prefiled: 2/3/2023

Date: 2/3/2023

Introduced by: _____


Rep. John Paul P. Sablan

introduction only
Reviewed for Legal Sufficiency by:
J. Mally 2-6-23
House Legal Counsel