



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Eloy S. Inos
Governor

Jude U. Hofschneider
Lieutenant Governor

15 MAR 2013

Honorable Joseph P. Deleon Guerrero
Speaker, House of Representatives
Eighteenth Northern Marianas
Commonwealth Legislature
Saipan, MP 96950

The Honorable Ralph DLG. Torres
Senate President
Eighteenth Northern Marianas
Commonwealth Legislature
Saipan, MP 96950

Dear Mr. Speaker and Mr. President:

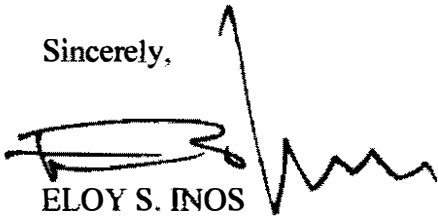
This is to inform you that I have signed into law, House Bill 18-3, entitled, "To strengthen provisions regarding sex crimes and domestic violence by establishing minimum mandatory sentences for Sexual Assault and Sexual Abuse of a Minor, increasing the time-served component necessary for parole eligibility, and amending existing definitions to clarify provisions relating to sex crimes and domestic violence," which was passed by the Eighteenth Northern Marianas Commonwealth Legislature.

This legislation addresses important laws affecting victims of sexual assault and sexual abuse of a minor, and I commend the legislature for tackling this issue. There are some oppositions to this legislation, but there was also much support and collaboration in creating this end product, which becomes law today. With this Act, I hope it serves as a stronger deterrent for perpetrators. No person should be a victim of any sexual crime, as victims of sexual crimes do not just hurt physically. The mental and emotional effects could be devastating and long lasting.

While this measure becomes law, there remains a concern about the term burglary as defined in 6 CMC §1801. I hope the legislature will revisit and address this issue.

This bill becomes **Public Law No. 18-3**. Copies bearing my signature are forwarded for your reference.

Sincerely,

A handwritten signature in black ink, appearing to read 'ELOY S. INOS', with a long, thin vertical line extending upwards from the end of the signature.

ELOY S. INOS

CC: Lt. Governor
Attorney General's Office
Press Secretary, Office of the Governor
Special Assistant for Programs & Legislative Review
All Branches, Departments, and Agencies



House of Representatives

NORTHERN MARIANAS COMMONWEALTH LEGISLATURE
P.O. BOX 500586
SAIPAN, MP 96950

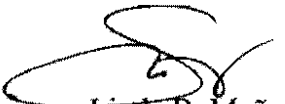
February 7, 2013

The Honorable Benigno R. Fitial
Governor
Commonwealth of the Northern
Mariana Islands
Capitol Hill
Saipan, MP 96950

Dear Governor Fitial:

I have the honor of transmitting herewith for your action **H. B. 18-3**, entitled: "To strengthen provisions regarding sex crimes and domestic violence by establishing minimum mandatory sentences for Sexual Assault and Sexual Abuse of a Minor, increasing the time-served component necessary for parole eligibility, and amending existing definitions to clarify provisions relating to sex crimes and domestic violence.", which was passed by the House of Representatives and the Senate of the Eighteenth Northern Marianas Commonwealth Legislature.

Sincerely yours,



Linda B. Muña
House Clerk

Attachment



*Eighteenth Legislature
of the
Commonwealth of the Northern Mariana Islands*
IN THE HOUSE OF REPRESENTATIVES

First Regular Session

January 22, 2013

Representative Edmund S. Villagomez, of Saipan, Precinct 3 (*for himself*) in an open and public meeting with an opportunity for the public to comment, introduced the following Bill:

H.B. 18-3

AN ACT

TO STRENGTHEN PROVISIONS REGARDING SEX CRIMES AND DOMESTIC VIOLENCE BY ESTABLISHING MINIMUM MANDATORY SENTENCES FOR SEXUAL ASSAULT AND SEXUAL ABUSE OF A MINOR, INCREASING THE TIME-SERVED COMPONENT NECESSARY FOR PAROLE ELIGIBILITY, AND AMENDING EXISTING DEFINITIONS TO CLARIFY PROVISIONS RELATING TO SEX CRIMES AND DOMESTIC VIOLENCE.

The Bill was referred not referred to a House Committee.

THE BILL WAS PASSED BY THE HOUSE OF REPRESENTATIVES ON FIRST AND FINAL READING, JANUARY 22, 2013;
without amendments and transmitted to the
THE SENATE.

The Bill was referred to the Senate Committee on Judiciary, Government, and Law.
THE BILL WAS PASSED BY THE SENATE ON FIRST AND FINAL READING, JANUARY 31, 2013;
without amendments.

H. B. 18-3 WAS RETURNED TO THE HOUSE OF REPRESENTATIVES ON FEBRUARY 4, 2013.

THE BILL WAS FINALLY PASSED ON JANUARY 22, 2013.



Linda B. Muña, House Clerk



*Eighteenth Legislature
of the
Commonwealth of the Northern Mariana Islands*
IN THE HOUSE OF REPRESENTATIVES

Second Day, First Regular Session

January 22, 2013

H. B. 18-3

AN ACT

TO STRENGTHEN PROVISIONS REGARDING SEX CRIMES AND DOMESTIC VIOLENCE BY ESTABLISHING MINIMUM MANDATORY SENTENCES FOR SEXUAL ASSAULT AND SEXUAL ABUSE OF A MINOR, INCREASING THE TIME-SERVED COMPONENT NECESSARY FOR PAROLE ELIGIBILITY, AND AMENDING EXISTING DEFINITIONS TO CLARIFY PROVISIONS RELATING TO SEX CRIMES AND DOMESTIC VIOLENCE.

Be it enacted by the Eighteenth Northern Marianas Commonwealth Legislature:

1 Section 1. Findings. The Legislature finds that existing laws governing domestic
2 violence and sex crimes require serious revision to better protect the victims of sexual
3 violence and domestic violence crimes. Together with the Northern Marianas Coalition
4 Against Domestic & Sexual Violence and the significant input of the Criminal Division of
5 the Office of the Attorney General, the Legislature hereby amends current CNMI law with
6 the best interests of the victims of sexual and domestic violence in mind. While it has been
7 asserted that portions of the legislation proposed herein “would hinder prosecution; the
8 legislative intent is based on a misstatement of the law; and, policy-wise, CNMI prosecutors

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1 believe it may have the opposite effect of resulting in fewer convictions,”¹ We, the
2 Legislature as policy makers, strongly disagree.

3 For the record, this bill was introduced in May of 2011 after it was reviewed and
4 approved by the Criminal Division of the CNMI Office of the Attorney General and the
5 Northern Marianas Coalition Against Domestic & Sexual Violence in the form of House Bill
6 17-193. It was later amended and passed by the House in the form of HB 17-193-HD1 after
7 the House Judiciary and Governmental Operations Committee (JGO) issued Standing
8 Committee Report 17-090. The JGO Committee recommended passage in the form of House
9 Draft 1, which increased the penalties after considering comments from the CNMI Board of
10 Parole and the Northern Marianas Coalition Against Domestic & Sexual Violence, both of
11 whom fully supported the Act. *See* SCR 17-90 (Aug. 8, 2011) at 3.

12 After passage by the Senate, HB 17-193 HD1 was vetoed by Governor Benigno R.
13 Fitial on November 30, 2012. In his veto message Governor Fitial cited an “Opinion” signed
14 by Dep. AG Viola Alepuyo. However, after careful review, none of the reasons put forth in
15 the “opinion” were sufficient—even taken as a whole, to veto the original legislation. Any
16 technical errors that may have existed could easily have been addressed by the CNMI Law
17 Revision Commission in the codification process. Any concerns that the bill would result in
18 fewer convictions because of the increased penalties were unsupported. Accordingly, We
19 find this opinion has no merit.

¹See Governor’s Communication 17-464 re veto of HB 17-193 HD1.

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1 Moreover, We specifically deem the suggestion that prosecutors may under-charge
2 crimes for whatever reason to be patently offensive and grossly insulting to the victims of
3 domestic and sexual violence.

4 After reviewing comments from both the CNMI Board of Parole and the Northern
5 Marianas Coalition Against Domestic & Sexual Violence in favor of the legislation which
6 was drafted with the active participation of the CNMI Office of the Attorney General's
7 Criminal Division, We expressly disagree with Alepuyo's opinion upon which the Governor
8 relied. The instant bill contains very minor technical revisions which would have been
9 addressed by the CNMI Law Revision Commission adequately had it been passed into law in
10 its original form.

11 Furthermore, We find it necessary to note that since the veto of this bill's original
12 version, HB 17-193 HD1, on November 30, 2012, there were 4 cases charged by the Office
13 of Attorney General relating to Sexual Abuse of a Minor. Prior to this, there were a total of 9
14 cases charged in October and November 2012 alone. Not one of these 13 cases will be
15 subject to the reasonable and proper increased penalties contained herein. The present laws
16 are simply not deterring criminal activity well enough. Clearly, too many victims are not
17 getting justice due to the lack of real teeth in the present laws. Accordingly, the passage of
18 this law is long overdue.

19 Having addressed the background and record of this bill, We turn now to address its
20 clear necessity: the urgent need to strengthen provisions regarding sex crimes and domestic
21 violence by establishing minimum mandatory sentences for Sexual Assault and Sexual Abuse
22 of a Minor, increasing the time-served component necessary for parole eligibility, and

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1 amending existing definitions to clarify provisions relating to sex crimes and domestic
2 violence.

3 This Act revises the penalty provisions for crimes involving Sexual Assault as set
4 forth in 6 CMC sections 1302-1304 and Sexual Abuse of a Minor as set forth in 6 CMC
5 sections 1307-1309. It also increases the "time-served" component necessary for parole
6 eligibility. In some cases, this legislation raises the maximum term of imprisonment with the
7 intention of deterring crime or providing more time for victims to recover or mature prior to a
8 sex offender's release from custody or his first appearance at a parole hearing.

9 The Legislature finds that the present range for Sexual Assault as well as Sexual
10 Abuse of a Minor in the second degree is punishment by zero (0) days incarceration all the
11 way up to ten (10) years. The lack of a minimum sentence coupled with the lack of a ceiling
12 that imposes any serious deterrent effect must be addressed immediately. Thus, the new
13 penalty will raise the minimum sentence from no time at all to at least two years as set forth
14 herein. This Act will also increase the maximum sentence from ten to fifteen years in serious
15 cases of sexual abuse or assault.

16 In doing so, the Legislature will adjust the penalty for crimes which may include acts
17 such as the sexual penetration of a minor, or of a mentally incapable adult, or someone who
18 is incapacitated--to an amount that may deter more crime or at a minimum, provide more
19 retributive justice to victims of sexual abuse.

20 Similarly, the crimes of third degree Sexual Assault and Sexual Abuse of a Minor
21 have an upper limit of five (5) years but presently no minimum amount of time to serve. The
22 same applies to fourth degree Sexual Assault as well as fourth degree Sexual Abuse of a

HOUSE BILL 18-3

1 Minor where the maximum penalty is one (1) year and again, there is absolutely no minimum.
2 The Legislature finds the maximum amount of time governing the punishment of third and
3 fourth degree Sexual Assault as well as Sexual Abuse of a Minor to be dangerously low. A
4 maximum sentence of five years for crimes that may involve not just sexual contact but
5 actual sexual *penetration* is insufficient.

6 For example, the current maximum penalty for someone who engages in penetration
7 and occupies a position of authority over the victim is 5 years under 6 CMC section 1308 (b).
8 Significantly, there is no minimum penalty whatsoever. Furthermore, an offender who is
9 under 16 years of age and engages in penetration with a person who is under 13 years of age
10 and at least 3 years younger than the offender is subject to not more than a one year sentence
11 under 6 CMC section 1309 as a violation of Sexual Abuse of a Minor in the fourth degree.

12 This legislation will ensure that the offender will be sentenced to at least two thirds of
13 the minimum relevant sentence, where the current minimum is absolutely zero. This
14 legislation will also lift the current low "ceilings." The maximum sentences in cases of
15 Second Degree Sexual Abuse of a Minor and Second Degree Sexual Assault should be lifted
16 from 10 to 15 years to allow for more deterrence or at a minimum, more protection for
17 victims.

18 Furthermore, the Legislature also finds that the time-served component of a sentence
19 is currently too low in cases of Sexual Abuse of a Minor and Sexual Assault where a
20 convicted sex offender may be paroled after serving only one third of a sentence. This is

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1 especially true in cases involving second, third, and fourth degree violations where the
2 mandatory sentencing provisions of 6 CMC section 4102 do not apply.²

3 To illustrate the point, even with the revised upper limit of fifteen years as in the case
4 of second degree Sexual Assault, a victim of a second degree sex crime could very well be a
5 minor child-both at the time of the crime, as well as at the time of the parole hearing five
6 years later. For example, a victim who is 11 to 16 years of age would be no older than 16 or
7 21 years of age when the need to testify at a parole hearing would arise. To address the
8 foregoing, the Legislature finds that the present requirement of serving one-third of a
9 sentence under 6 CMC section 4252 to be seriously deficient given the nature of the crime.

10 It is especially deficient considering the potential tender years of the victims—both at
11 the time of the crime and relevantly, at the time of the parole hearing. For this reason, the
12 present minimum amount of one third time-served shall be increased to no less than **two-**
13 thirds “time-served” relative to the amount of the unsuspended sentence before a convicted
14 sex offender is allowed to seek parole.

15 The Legislature also finds that there is a need to revise the definition of “sexual
16 contact.” This revision is necessary to address the present ambiguity that may exist because
17 there are two statutory definitions—~~one~~ set forth in 6 CMC section 103 (r) and one set forth
18 in 6 CMC section 1317 (7). The revised definition herein deletes both original definitions
19 and makes both provisions: 6 CMC sections 103 (r) and 1317 (7), exactly the same.³

² We appreciate the CNMI Board of Parole’s comments. This version incorporates completely and without substantive amendment the parole-related items that the Board approved.

³ The CNMI Law Revision Commission is authorized by law to codify legislation in a manner that is in line with the clear and express intent of the legislation notwithstanding technical errors. For example, the omission of the text “subsection (r)” would have been easily and quickly addressed by the LRC via a “Comment” to the codified version.

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1 In addition, the new definition lists parts of the human anatomy that are governed,
2 including the clothing of a victim, while also expanding the definition to include any sexual
3 contact of an improper sexual nature-as opposed to focusing and limiting the areas of contact
4 to a particular part of the body. This revision should place the focus properly on the mental
5 state of the perpetrator who may touch or grope a victim on any part of the victim-even those
6 not currently governed by the statute.

7 Consequently, this new definition will allow the proper prosecution of the illegal
8 sexual conduct that is not limited to the part of the anatomy that was contacted nor the gender
9 of the victim. We disagree with the notion that this new definition, one that harmonizes the
10 two present dissimilar provisions, is flawed in that it may criminalize benign conduct and
11 make criminal prosecutions of actual abuse more difficult.

12 In addition, the revisions to the definitions are necessary to remove potential
13 loopholes in the law pertaining to grooming activity and crimes targeting young boys. For
14 example, if a young boy reported initial touching of his breast or initial touching of a
15 “grooming nature” as it is understood by law enforcement experts, such activity would not be
16 considered sexual assault under the current definitions. It is unthinkable to have to wait for
17 the offender’s abuse to progress for the young boys’ cries to be heard. These are not
18 “relatively benign” acts. As stated by the Northern Marianas Coalition Against Domestic &
19 Sexual Violence, these acts “are abusive and assaultive, not only to a person’s body, but to
20 his or her spirit and soul.”

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1 Finally, the Legislature also finds that there is a need to revise the definition of
2 “burglary” to provide express authority to allow for the prosecution of individuals that harm
3 or attempt to harm not just property but also “persons.”

4 By doing this, prosecutions involving individuals breaking and entering for purposes
5 of attacking a domestic partner or any person for that matter, will be expressly possible even
6 absent the intent to commit a traditional, narrowly defined, burglary.

7 **Section 2. Amendment.** 6 CMC Section 1302 (b) is hereby amended as follows:

8 “(b) Sexual Assault in the second degree is punishable by
9 imprisonment of not less than two (2) years and not more than fifteen (15)
10 years, a fine of not more than \$10,000, or both. Notwithstanding any other
11 provision of law, a person sentenced under this provision and 6 CMC section
12 4252 shall not be eligible for parole, if at all, until two-thirds of this minimum
13 sentence (487 days) has been served.”

14 **Section 3. Amendment.** 6 CMC Section 1303 (b) is hereby amended as
15 follows:

16 “(b) Sexual Assault in the third degree is punishable by imprisonment of not
17 less than one year and not more than five years, a fine of not more than \$2,000, or
18 both. Notwithstanding any other provision of law, a person sentenced under this
19 provision or 6 CMC section 4252 shall not be eligible for parole, if at all, until two-
20 thirds of this minimum sentence (244 days) has been served.”

21 **Section 4. Amendment.** 6 CMC Section 1304 (b) is hereby amended as follows:

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1 “(b) Sexual Assault in the fourth degree is punishable by imprisonment for not
2 less than forty-five (45) days and not more than one year, a fine of \$1,000, or both.
3 Notwithstanding any other provision of law, a person sentenced under this provision
4 and 6 CMC section 4252 shall not be eligible for parole, if at all, until two-thirds of
5 this minimum sentence (30 days) has been served.”

6 **Section 5. Amendment.** 6 CMC Section 1307 (b) is hereby amended as follows:

7 “(b) Sexual Abuse of a Minor in the second degree is punishable by
8 imprisonment for not less than five (5) years and not more than fifteen (15)
9 years, and a fine of not more than \$10,000, or both. Notwithstanding any
10 other provision of law, a person sentenced under this provision and 6 CMC
11 section 4252 shall not be eligible for parole, if at all, until two-thirds of this
12 minimum sentence (1,217 days) has been served.”

13 **Section 6. Amendment.** 6 CMC Section 1308 (b) is hereby amended as follows:

14 “(b) Sexual Abuse of a Minor in the third degree is punishable by
15 imprisonment for not less than two (2) years and not more than 5 years, a fine
16 of not more than \$2,000, or both. Notwithstanding any other provision of law,
17 a person sentenced under this provision and 6 CMC section 4252 shall not be
18 eligible for parole, if at all, until two-thirds of this minimum sentence (487
19 days) has been served.”

20 **Section 7. Amendment.** 6 CMC Section 1309 (b) is hereby amended as follows:

21 “(b) Sexual Abuse of a Minor in the fourth degree is punishable by
22 imprisonment for not less than one hundred twenty (120) days and not more

HOUSE BILL 18-3

1 than one year, a fine of not more than \$1,000, or both. Notwithstanding any
2 other provision of law, a person sentenced under this provision and 6 CMC
3 section 4252 shall not be eligible for parole, if at all, until two-thirds of this
4 minimum sentence (80 days) has been served.”

5 **Section 8. Amendment.** 6 CMC Section 103 subsection (r) (as enacted by Public
6 Law 3-71 and amended by Public Law 3-72) is hereby amended as follows:

7 **“6 CMC section 103.**

8 (r) “Sexual Contact is the intentional touching of the victim’s or actor’s
9 intimate parts which include but are not limited to the primary genital area, groin,
10 inner thigh, anus, buttock, or breast of a human being or the intentional touching of
11 the clothing covering the immediate area of the victim’s or actor’s intimate parts, if
12 that intentional touching can reasonably be construed as being for the purpose of
13 sexual arousal or gratification.”

14 **Section 9. Amendment.** 6 CMC Section 1317 subsection (7) (as enacted by Public
15 Law 12-82) is hereby amended as follows:

16 (7) “Sexual Contact is the intentional touching of the victim’s or actor’s
17 intimate parts which include but are not limited to the primary genital area, groin,
18 inner thigh, anus, buttock, or breast of a human being or the intentional touching of
19 the clothing covering the immediate area of the victim’s or actor’s intimate parts, if
20 that intentional touching can reasonably be construed as being for the purpose of
21 sexual arousal or gratification.”

HOUSE BILL 18-3

1 **Section 10. Amendment.** 6 CMC Section 1801 subsection (2) is hereby amended by
2 adding “or person” to subsection (a), to read as follows:

3 **“1801. Burglary.**

4 (a) A person commits the offense of burglary if he or she enters a building or
5 occupied structure, or separately occupied or secured portion thereof, or a vehicle
6 with the purpose to commit any felony or crime against property or person, unless the
7 premises are at the time open to the public or the person is licensed, authorized or
8 privileged to enter. It is an affirmative defense to prosecution for burglary that the
9 building or structure was abandoned.”

10 **Section 11. Amendment.** 6 CMC Section 4252 is hereby amended by adding a new
11 subsection (e) to read as follows:

12 “(e) any person convicted of Second, Third, or Fourth Degree Sexual Assault
13 as set forth in 6 CMC sections 1302, 1303, and 1304, respectively, shall not be
14 eligible for parole until a term of at least two-thirds of the minimum mandatory
15 sentence has been served, unless further restricted by the sentencing court pursuant to
16 subsection (b), above.”

17 **Section 12. Amendment.** 6 CMC Section 4252 is hereby amended by adding a new
18 subsection (f) to read as follows:

19 “(f) any person convicted of Second, Third, or Fourth Degree Sexual Abuse of
20 a Minor as set forth in 6 CMC sections 1307, 1308, and 1309, respectively, shall be
21 ineligible for parole until a term of at least two-thirds of the minimum mandatory

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1 sentence has been served, unless further restricted by the sentencing court pursuant to
2 subsection (b), above.”

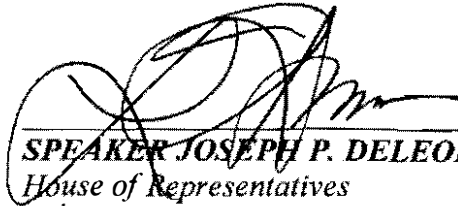
3 **Section 13. Severability.** If any provisions of this Act or the application of any such
4 provision to any person or circumstance should be held invalid by a court of competent
5 jurisdiction, the remainder of this Act or the application of its provisions to persons or
6 circumstances other than those to which it is held invalid shall not be affected thereby.

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


HOUSE BILL 18-3

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

Attested to by: 
Linda B. Muña, House Clerk

Certified by: 
SPEAKER JOSEPH P. DELEON GUERRERO
House of Representatives
18th Northern Marianas Commonwealth Legislature

Approved this 15TH day of MARCH, 2013


Eloy S. Inos
Governor
Commonwealth of the Northern Mariana Islands