



GOV. COMM. 20-136
(HOUSE)

RALPH DLG. TORRES
Governor

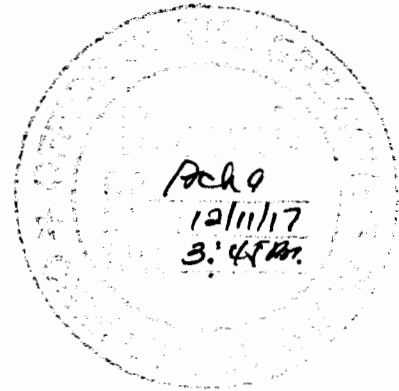
VICTOR B. HOCOG
Lieutenant Governor

COMMONWEALTH of the NORTHERN MARIANA ISLANDS
OFFICE OF THE GOVERNOR

11 DEC 2017

The Honorable Rafael S. Demapan
Speaker, House of Representatives
Twentieth Northern Marianas
Commonwealth Legislature
Saipan, MP 96950

The Honorable Arnold I. Palacios
Senate President, The Senate
Twentieth Northern Marianas
Commonwealth Legislature
Saipan, MP 96950

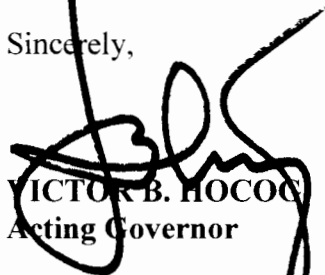


Dear Mr. Speaker and Mr. President:

This is to inform you that I have signed into law House Bill No. 20-14, entitled, "To improve the justice system's response to domestic violence, and for other purposes," which was passed by the House of Representatives and the Senate of the Twentieth Northern Marianas Commonwealth Legislature.

This bill becomes **Public Law No. 20-28**. Copies bearing my signature are forwarded for your reference.

Sincerely,



VICTOR B. HOCOG
Acting Governor

cc: Governor; Press Secretary; Attorney General's Office; Supreme Court of the Northern Marianas; Superior Court of the Northern Marianas; Public Auditor; Special Assistant for Administration; Special Assistant for Programs and Legislative Review

HOUSE CLERK & OFC
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*Twentieth Legislature
of the
Commonwealth of the Northern Mariana Islands*

IN THE HOUSE OF REPRESENTATIVES

First Regular Session

January 31, 2017

REPRESENTATIVE RAFAEL S. DEMAPAN of Saipan, Precinct 2 (*for himself*), in an open and public meeting with an opportunity for the public to comment, introduced the following Bill:

H. B. No. 20-14

AN ACT

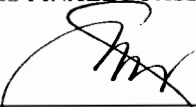
**TO IMPROVE THE JUSTICE SYSTEM'S RESPONSE TO
DOMESTIC VIOLENCE, AND FOR OTHER PURPOSES.**

The Bill was referred to the Committee on Judiciary and Governmental Operations, which submitted Standing Committee Report No. 20-31; adopted 6/27/17.

**THE BILL WAS PASSED BY THE HOUSE OF REPRESENTATIVES ON
FIRST AND FINAL READING, JULY 6, 2017;**
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, OCTOBER 25, 2017;
without amendments and was returned to
THE HOUSE OF REPRESENTATIVES.

THE BILL WAS FINALLY PASSED ON JULY 6, 2017.



Linda B. Muña, House Clerk



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

SECOND DAY, FIFTH SPECIAL SESSION

JULY 6, 2017

H. B. NO. 20-14

AN ACT

**TO IMPROVE THE JUSTICE SYSTEM'S RESPONSE TO DOMESTIC
VIOLENCE, AND FOR OTHER PURPOSES.**

**Be it enacted by the Twentieth Northern Marianas Commonwealth
Legislature:**

1 **Section 1. Findings and Purpose.** The Legislature finds that strangulation is one of
2 the most lethal forms of domestic violence. Unconsciousness may occur within seconds and
3 death within minutes. Strangulation is among the best predictors of future homicide in
4 domestic violence cases. According to a 2008 study by the Journal of Emergency Medicine,
5 the odds of becoming an attempted homicide increased by about sevenfold for women who
6 had been strangled by their partner.

7 Strangulation is currently charged as battery. The penalties for battery are not
8 sufficient to reflect the severity of this offense. The National Center for the Prosecution of
9 Violence Against Women, the National District Attorneys Association, and the National
10 Family Justice Center Alliance all support the establishment of a separate felony offense for
11 strangulation.

12 The Legislature finds that many perpetrators of domestic violence use threats and
13 intimidation against their victims to prevent them from testifying in court. The courts of the
14 Commonwealth should not reward such behavior. Therefore, the Commonwealth should

HOUSE BILL 20-14

1 adopt the doctrine of forfeiture by wrongdoing in domestic violence cases: a defendant who
2 engages in conduct designed to prevent a witness from testifying has forfeited their right to
3 confront the witness in court. The United States Supreme Court approved this doctrine in
4 *Giles v. California*, 554 U.S. 353 (2008).

5 The Commonwealth can also reduce the use of intimidation to prevent victims from
6 testifying by allowing the use of prior inconsistent sworn statements as substantive evidence,
7 rather than merely as impeachment. This provision is adapted from 725 Ill. Comp. Stat.
8 5/115-10.1 and should be interpreted consistently with that statute.

9 The Legislature finds that the behavior of victims of domestic violence may be
10 counterintuitive. Mental health experts as well as other professionals who work with
11 domestic violence victims, however, understand that behavior viewed as counterintuitive by
12 the public actually represents common victim responses to trauma. The Commonwealth
13 should adopt a statute to expand the scope of expert testimony in domestic violence cases.
14 This provision is adapted from 42 Pa.C.S. § 5920 and should be interpreted consistently with
15 that statute.

16 The Legislature finds that the Commonwealth's current laws against stalking are
17 based on Alaska Stat. §§ 11.41.260-270. These statutes have come under criticism because
18 they do not address the full range of stalking behaviors, including indirect communications
19 with victims. Stalking includes, but is not limited to, a pattern of following, observing, or
20 monitoring the victim, or committing violent or intimidating acts against the victim,
21 regardless of the means.

22 The Legislature intends to enact a stalking statute that permits the criminal justice
23 system to hold stalkers accountable for a wide range of acts, communications, and conduct.
24 This statute is adapted from the 2007 edition of the Model Stalking Code and should be
25 interpreted consistently with other states that have enacted that statute, and with the
26 publication "The Model Stalking Revisited: Responding to the New Realities of Stalking,
27 published by the National Center for Victims of Crime in 2007."

28 **Section 2. Amendment.** Title 6, Division 1, Part 1, Chapter 4, Article 5 of the
29 Commonwealth Code is amended by the addition of a new section 1468, as follows:

HOUSE BILL 20-14

1 “§1468. Strangulation.

2 (a) In this section:

3 (1) ‘Strangle’ means to impede the normal breathing or circulation of
4 the blood of another person by applying pressure to the throat or the neck of
5 the other person, or by blocking the nose or the mouth of the other person.

6 (2) ‘Household member’ has the same definition as the term
7 ‘household member’ found in 6 CMC § 1461(a)(2).

8 (b) Any person who willfully and unlawfully strangles or attempts to strangle
9 a household member is guilty of a felony punishable by imprisonment for not more
10 than seven years.

11 (c) No injuries are required to prove attempted strangulation.

12 (d) The prosecution is not required to prove that the defendant intended to
13 injure or kill the victim. The only intent required is the intent to strangle or attempt to
14 strangle.”

15 **Section 3. Amendment.** Title 6, Division 1, Part 1, Chapter 4, Article 5 of the
16 Commonwealth Code is amended by the addition of a new section 1469, as follows:

17 “§1469. Special Evidentiary Standards in Domestic Violence Actions.

18 (a) Every party in a criminal or civil action involving domestic violence
19 forfeits the right to object to a statement on hearsay and Confrontation Clause
20 grounds when the party engaged in conduct, or acquiesced to conduct, designed to
21 procure the unavailability of the declarant of the statement as a witness. The conduct
22 need not consist of a criminal act.

23 (b) In any domestic violence case, evidence of a statement made by a witness
24 is not made inadmissible by the hearsay rule if:

25 (1) the statement is inconsistent with his testimony at the hearing or
26 trial, and

27 (2) the witness is subject to cross-examination concerning the
28 statement, and

29 (3) the statement:

HOUSE BILL 20-14

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(i) was made under oath at a trial, hearing, or other proceeding,
or

(ii) narrates, describes, or explains an event or condition of
which the witness had personal knowledge, and:

(A) the statement is proved to have been written or
signed by the witness, or

(B) the witness acknowledged under oath the making of
the statement either in his testimony at the hearing or trial in
which the admission into evidence of the prior statement is
being sought, or at a trial, hearing, or other proceeding, or

(C) the statement is proved to have been accurately
recorded by a tape recorder, videotape recording, or any other
similar electronic means of sound recording.

(4) Nothing in this subsection shall render a prior inconsistent
statement inadmissible for purposes of impeachment because such statement
was not recorded or otherwise fails to meet the criteria set forth herein.

(c) In a criminal proceeding involving domestic violence, a witness may be
qualified by the court as an expert if the witness has specialized knowledge beyond
that possessed by the average layperson based on the witness's experience with, or
specialized training or education in, criminal justice, behavioral sciences or victim
services issues, related to domestic violence, that will assist the trier of fact in
understanding the dynamics of domestic violence, victim responses to domestic
violence and the impact of domestic violence on victims during and after being
assaulted.

(1) If qualified as an expert, the witness may testify to facts and
opinions regarding specific types of victim responses and victim behaviors.

(2) The witness's opinion regarding the credibility of any other
witness, including the victim, shall not be admissible.

(3) A witness qualified by the court as an expert under this section may

HOUSE BILL 20-14

1 be called by the attorney for the Commonwealth or the defendant to provide
2 the expert testimony.”

3 **Section 4. Repeal and Re-Enactment.** 6 CMC § 1471 is repealed and re-enacted as
4 follows:

5 **“§ 1471. Definitions.**

6 As used in this article:

7 (a) “Course of conduct” means two or more acts, including, but not
8 limited to, acts in which the stalker directly, indirectly, or through third
9 parties, by any action, method, device, or means, follows, monitors, observes,
10 surveils, threatens, or communicates to or about, a person, or interferes with a
11 person’s property.

12 (b) “Emotional distress” means significant mental suffering or distress
13 that may, but does not necessarily, require medical or other professional
14 treatment or counseling.

15 (c) “Reasonable person” means a reasonable person in the victim’s
16 circumstances.”

17 **Section 5. Repeal and Re-Enactment.** 6 CMC § 1472 is repealed and re-enacted as
18 follows:

19 **“§ 1472. Stalking.**

20 (a) Any person who purposefully engages in a course of conduct directed at a
21 specific person and knows or should know that the course of conduct would cause a
22 reasonable person to:

- 23 (1) fear for his or her safety or the safety of a third person; or
24 (2) suffer other emotional distress is guilty of stalking.

25 (b) In any prosecution under this law, it shall not be a defense that:

- 26 (1) the actor was not given actual notice that the course of conduct was
27 unwanted; or
28 (2) the actor did not intend to cause the victim fear or other emotional
29 distress.

HOUSE BILL 20-14

1 (c) A person commits the crime of stalking in the first degree if the person
2 violates subsection (a) and:

3 (1) the defendant violated any order prohibiting contact with the
4 victim; or

5 (2) the defendant was convicted of stalking any person within the
6 previous 10 years; or

7 (3) the defendant used force or a weapon or threatened to use force or a
8 weapon; or

9 (4) the victim is a minor.

10 (d) All acts of stalking not described in subsection (c) constitute the crime of
11 stalking in the second degree.

12 (e) Stalking in the first degree is a felony punishable by imprisonment of up to
13 four years, by a fine of up to \$2,000, or both.

14 (f) Stalking in the second degree is a felony punishable by imprisonment of up
15 to one year, by a fine of up to \$1,000, or both.”

16 **Section 6. Amendment.** 6 CMC § 1461(a)(1) is amended by the addition of the
17 following subsection:

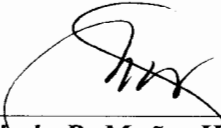
18 “(L) Strangulation under 6 CMC § 1468.”


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

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

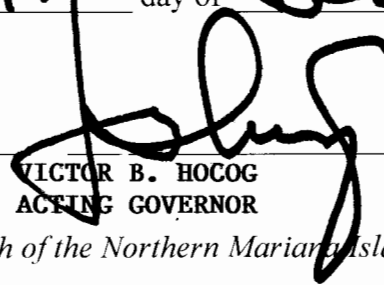
HOUSE BILL 20-14

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

Attested to by: 
Linda B. Muña, House Clerk

Certified by: 
SPEAKER RAFAEL S. DEMAPAN
House of Representatives
20th Northern Marianas Commonwealth Legislature

Approved this 11th day of December, 2017


VICTOR B. HOCOG
ACTING GOVERNOR
Commonwealth of the Northern Mariana Islands