
A BILL FOR AN ACT

To prohibit the Office of the Attorney General from issuing criminal investigative subpoenas or adopting regulations to issue investigative subpoenas unless explicitly authorized by CNMI Law or a CNMI Judicial Officer; and for other purposes.

**BE IT ENACTED BY THE TWENTY-FOURTH NORTHERN MARIANAS
COMMONWEALTH LEGISLATURE:**

1 **Section 1. Findings and Purpose.** The Legislature finds that the Office of the
2 Attorney General (OAG) published a “Public Notice of Proposed Regulations Regarding
3 the Use of the Investigative Subpoenas by the Office of the Attorney General” in the
4 Commonwealth Register on October 15, 2025. Pursuant to 1 CMC § 9104, public
5 comments must be submitted to the OAG within 30 days of the date of publication and
6 would become effective 10 days after adoption and publication in the Commonwealth
7 Register.

8 The Legislature further finds that as stated in the OAG proposed “Criminal
9 Investigative Subpoena Regulations” Section § 001-101, the purpose of these regulations
10 is to “implement the independent, constitutional authority of the Attorney General of the
11 Commonwealth of the Northern Mariana Islands (CNMI) to prosecute violations of
12 criminal law, which includes the authority to investigate and evaluate each case before
13 making a charging decision. As part of that authority to investigate, the Attorney General
14 has inherent power to issue investigative subpoenas. These regulations establish the
15 process for issuing and enforcing investigative subpoenas.” *See* Proposed 47 Com. Reg.
16 052967, 052673 (Oct. 15, 2025). The OAG further stated in Section § 001.102 that “these
17 regulations are promulgated by the Attorney General under the authority granted by CNMI
18 Const. art. III, § 11, 1 CMC § 2153 & 2156, 4 CMC § 5119, and the CNMI Administrative
19 Procedure Act. *Id.*

1 The Legislature finds that, contrary to the OAG’s declaration of authority under
2 Section § 001.102 of its proposed regulations, NMI Const. art. III, § 11 does not explicitly
3 or otherwise grant the OAG with any power to issue investigative subpoenas. The relevant
4 provision in § 11 provides that “[t]he Attorney General shall be the Chief Legal Officer of
5 the Commonwealth government and shall be responsible for providing legal advice to the
6 governor and executive departments (including public corporations and autonomous
7 agencies), representing the Commonwealth in all legal matters, and prosecuting violations
8 of Commonwealth law.” A plain reading of the excerpt above indicates that there is no
9 explicit language granting the Attorney General with the “power to issue criminal
10 investigative subpoenas” in any part or subsection of Art. III, § 11. Moreover, Art. III, §
11 11 does not include any language granting the Attorney General with “inherent powers” as
12 claimed in the proposed criminal investigative subpoena regulations. On the contrary, the
13 CNMI Supreme Court in the case *In re San Nicholas*, 2013 MP 8 (Jun. 28, 2013) opined
14 that the power of the Attorney General to prosecute is not absolute. *Id.* at ¶ 13.

15 The Legislature finds that in addition to the limited powers granted to the Attorney
16 General in NMI Const. art. III, § 11, the Attorney General is also conferred statutory
17 authority set forth at 1 CMC §§ 2153, which enumerates the powers and duties of the
18 Attorney General, but does not explicitly mention, include, or list the power to issue
19 criminal investigative subpoenas. Moreover, 1 CMC § 2156, which lists the duties of the
20 OAG Consumer Counsel, further does not include the power to issue criminal investigative
21 subpoenas. However, in order to accomplish the objectives and to carry out the duties
22 prescribed by the Consumer Protection Act set forth at 4 CMC § 5101 *et seq.*, 4 CMC §
23 5115 explicitly gives the OAG Consumer Counsel the authority to issue subpoenas only in
24 consumer protection cases. The Consumer Counsel with the concurrence of the Attorney
25 General may promulgate regulations to carry out the purposes of the Consumer Protection
26 Act pursuant to 4 CMC § 5119.

27 The Legislature further finds that the concept of granting the Attorney General
28 statutory authority to issue general criminal investigative subpoenas was introduced in the

1 23rd CNMI Legislature through House Bill 23-22, which was passed by the House of
2 Representatives. House Bill 23-22 failed to pass in the Senate due to oral and written
3 opposition by numerous private criminal law attorneys, the CNMI Office of the Public
4 Defender, and the members of the public. Therefore, it is alarming that the Attorney
5 General who is the “Chief Legal Officer of the Commonwealth Government” would ignore
6 that fact that House Bill 23-22 was not enacted into law and attempt to establish AGO
7 criminal investigative subpoena powers through regulations pursuant to authority that is
8 not explicitly or otherwise granted to the Attorney General in NMI Const. art. III, § 11, 1
9 CMC §§ 2153 and 2156, and 4 CMC § 5119. Until such time that the NMI Constitution is
10 amended or a CNMI law is enacted to grant the Attorney General with the explicit power
11 to issue general criminal investigative subpoenas, the Attorney General must continue with
12 the current system of constitutional checks and balances practice of compelling the
13 testimony of witnesses or production of documents with probable cause reviewed by a
14 judicial officer. Accordingly, the purpose of this legislation is to prohibit the Attorney
15 General from issuing criminal investigative subpoenas or adopting applicable regulations
16 unless explicitly authorized by CNMI law or a CNMI judicial officer.

17 **Section 2. Amendment.** Title 1, Division 2, Part 1, Chapter 3, Article 1 of the
18 Commonwealth Code is hereby amended by adding a new section 2158 to read as follows:

19 **“§ 2158. Prohibition of Use of Criminal Investigative Subpoena unless**
20 **explicitly authorized by CNMI Law or a CNMI Judicial Officer.**

21 (a) Except as provided in 4 CMC § 5116, the Attorney General shall not
22 issue any criminal investigative subpoena or adopt regulations authorizing such
23 criminal investigative subpoenas unless explicitly authorized by CNMI law or a
24 CNMI Judicial Officer.

25 (b) Any regulation adopted to authorize criminal investigative subpoenas
26 without express authorization by CNMI law shall be null and void, and
27 unenforceable against any person.”

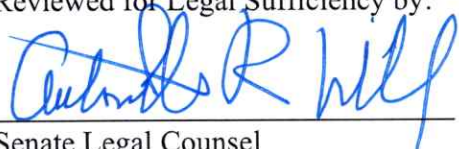
1 **Section 3. Severability.** If any provision of this Act or the application of any such
2 provision to any person or circumstance should be held invalid by a court of competent
3 jurisdiction, the remainder of this Act or the application of its provisions to persons or
4 circumstances other than those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

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

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

Date: 11/25/25

Introduced By: 
Sen. Karl R. King-Nabors

Reviewed for Legal Sufficiency by:

Senate Legal Counsel