

Public Law 26-125

MINA'BENTE SAIS NA LIHESLATURAN GUÅHAN
2002 (SECOND) Regular Session

Bill No. 292 (COR)

As substituted by the Committee on Power, Public Safety and the Judiciary, and amended in the Committee of the Whole.

Introduced by:

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AN ACT TO ADD § 2101(c) TO TITLE 7, TO REPEAL AND REENACT §§ 48001 AND 48002 OF TITLE 17, TO ADD §§ 67.401.4(n), 67.401.21, AND 67.401.2(c), (d) AND (e) TO TITLE 9, TO AMEND §§ 67.407 (c) AND (d) OF TITLE 9, TO REPEAL §§ 80.33.11, 80.33.12 AND 80.33.13 OF TITLE 9, AND TO ADD DEFINITIONS TO § 67.100 OF TITLE 9, ALL OF THE GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING AND OPERATING A THERAPEUTIC DRUG COURT ON GUAM.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. It is the intent of *I Liheslaturan Guåhan* to support the Judiciary in the establishment of Therapeutic Drug Courts to provide for integrated drug treatment services to adult and juvenile offenders who come within the jurisdiction of the Superior Court of Guam. *I Liheslaturan Guåhan* further supports the adoption by the Judicial Council of the “Ten (10) Key Components for the establishment of Drug Courts,” as promulgated by the Drug Courts Program Office of the U.S. Department of Justice’s Office of Justice Programs.

I Liheslaturan Guåhan enacts the following specific *minimum* goals and objectives for the establishment of a Juvenile Drug Court: (a) to reduce drug usage by juveniles who come within the jurisdiction of the Family Court; (b) to reduce criminal activity and recidivism by juveniles on Guam; (c) to provide early intervention and treatment of juveniles found to be dependent on illegal controlled substances, alcohol or inhalants; (d) to strengthen family bonds and relationships; *and* (e) to improve school attendance and graduation. Finally, *I Liheslaturan Guåhan* seeks to create Therapeutic Drug Courts for adult and juvenile offenders in accordance with 7 G.C.A. § 2101(c).

Section 2. Creation of a Drug Court Division. Section 2101(c) is hereby *added* to Chapter 2, Division 1 of Title 7 of the Guam Code Annotated to read as follows:

“(c) There is herein established within the Superior Court of Guam, a Drug Court which shall have jurisdiction over adult and juvenile offenders charged with drug offenses on Guam. The Drug Court shall have as its goal to provide therapeutic treatment and counseling to adult and juvenile offenders under its jurisdiction, to the greatest extent allowed by Guam law.”

Section 3. Defining Drug Free School Zone.

(a) The following definitions are hereby *added* to § 67.100 of Article 1, Chapter 67 of Title 9 of the Guam Code Annotated to read as follows, and all Subsections therein are to be renumbered by the Compiler of Laws accordingly:

“*Drug Free School Zone*’ means any area within one thousand (1,000) feet of a public or private elementary, secondary or post secondary educational institution or its accompanying grounds; or within the vehicle of any school bus which transports students while in motion; or within two hundred fifty feet (250’) of any school bus *not* in motion or a designated school bus stop or shelter, including any school bus transfer station. Notwithstanding the provisions of this Section, a *Drug Free School Zone* shall *not* include private real property which is *not* a school or the accompanying grounds of a school.

‘*School*’ means any establishment, public or private, for the care and education of students from kindergarten through grade twelve (12) and any college or university or educational institution of higher learning.

‘*Accompanying Grounds*’ means the respective campuses, recreational areas, athletic fields, student housing, or other property of each school which are owned, used, or operated by their respective governing boards of the schools or chief administrative officers in the case of a private school.”

(b) Section 48001 of Chapter 48, Division 5 of Title 17 of the Guam Code Annotated is hereby *repealed and reenacted* to read as follows:

“**Section 48001. Definitions.** ‘*Drug Free School Zone*’ means any area within one thousand (1,000) feet of a public or private elementary, secondary or post secondary educational institution or its accompanying grounds; or within the vehicle of any school bus which transports students while in motion; or within two hundred fifty feet (250’) of any school bus *not* in motion or a designated school bus stop or shelter, including any school bus transfer station. Notwithstanding the provisions of this Section, a *Drug Free School Zone* shall *not* include private real property which is *not* a school or the accompanying grounds of a school.”

(c) Section 48002 of Chapter 48, Division 5 of Title 17 of the Guam Code Annotated is hereby *repealed and reenacted* to read as follows:

“**Section 48002. Establishment of a Drug Free School Zone.** There is hereby established a Drug Free School Zone as defined in this Chapter. Any person who commits an

offense under Chapter 67 of Title 9 of the Guam Code Annotated within the Drug Free School Zone shall be in violation of this Chapter and punished in accordance with Article 4, Chapter 67 of Title 9 of the Guam Code Annotated.”

(d) A new ninety (90) day period for re-designation of Drug Free School Zones is hereby established pursuant to 17 G.C.A. § 48003 commencing the effective date of enactment of this Act.

Section 4. Penalties for Possession and Reporting within the Drug Free School Zone.

Sections 67.401.2(c), (d) and (e) are hereby *added* to Article 4, Chapter 67 of Title 9 of the Guam Code Annotated to read as follows:

“(c) A person who commits a crime under 9 G.C.A. §§ 67.401.2(b)(2) or (3) within the Drug Free School Zone shall be guilty of a misdemeanor.

(d) A person who commits a crime under §§ 67.401.1 or 67.401.2(b)(1) within the Drug Free School Zone shall be guilty of the same class of felony had the offense been committed outside the Drug Free School Zone.

(e) A person who knowingly fails to report any violation of this Chapter within the Drug Free School Zone is guilty of a misdemeanor.”

Section 5. Enhanced Sentencing for a Felony Offense Committed within the Drug Free School Zone.

Section 67.401.4(n) is hereby *added* to Article 4, Chapter 67 of Title 9 of the Guam Code Annotated to read as follows:

“(n) *If* the person is guilty of possession under § 67.401.2(b)(1) within the Drug Free School Zone, the person may be sentenced to a *maximum* of three (3) years of imprisonment, which sentence shall *not* be suspended on probation, nor shall the person be eligible for parole until completion of the mandatory term of incarceration.”

Section 6. Penalties for Distribution within the Drug Free School Zone.

Sections 67.407 (c) and (d) of Article 4, Chapter 67 of Title 9 of the Guam Code Annotated are hereby *amended* to read as follows:

“(c) An individual shall *not* violate § 67.401.1(a)(1) of this Act by distributing a substance listed in Schedule I or II as per Appendices A and B of this Act which is a narcotic drug, in or on a school, or within the Drug Free School Zone as herein defined. An individual who violates this Subsection shall be sentenced to serve, in addition to the minimum sentence prescribed by § 67.401.4 of this Act, a term of five (5) years of imprisonment. Imposition or execution of such sentence shall *not* be suspended and probation shall *not* be granted. Parole or work release shall *not* be granted until the offender has served the additional five (5) years prescribed by this Subsection.

(d) An individual shall *not* violate § 67.401.1(a)(1) of this Act by distributing any non-narcotic controlled substance listed in Schedule I or II as per Appendices A and B of this Act or a substance listed in Schedules III, IV, or V as per Appendices C-E of this Act, in or on a school, or within the Drug Free School Zone as herein defined. An individual who violates this Subsection shall be sentenced to serve, in addition to the *minimum* sentence prescribed by § 67.401.4 of this Act, a term of three (3) years of imprisonment. Imposition or execution of such sentence shall *not* be suspended and probation shall *not* be granted. Parole or work release shall *not* be granted until the offender has served the additional three (3) years prescribed by this Subsection.”

Section 7. Enactment of Inhalant Offenses. Section 67.401.21 is hereby *added* to Article 4, Chapter 67 of Title 9 of the Guam Code Annotated to read as follows:

“Section 67.401.21. Inhalants.

- (a) **Use of Inhalants.** It is unlawful for a person to inhale, ingest, apply or smell the gases, vapors or fumes of an aerosol spray product, volatile chemical, substance or other inhalant, that is *not* used pursuant to the instructions or prescription of a licensed health care provider, or that is *not* used pursuant to the manufacturer’s label instructions, for the purpose of becoming under the influence of such substance, causing intoxication, euphoria, inebriation, stupefaction or the dulling of that person’s brain or nervous system.
- (b) It is unlawful for a person to possess any gas, hazardous inhalant, aerosol spray product, substance containing a volatile chemical or substance containing a chemical material capable of releasing toxic vapors with the intent to violate the above.
- (c) Nothing in this Section applies to the inhalation of a prescription or over-the-counter product for medical or dental purposes, or the inhalation of the vapors or fumes of an alcoholic beverage, the sale and consumption of which is authorized by law.
- (d) Proof that a person intentionally or knowingly inhaled, ingested, applied or used a substance in a manner contrary to the directions for use, cautions or warnings on a label of a container of the substance gives rise to a presumption that the person violated Subsection (a).
- (e) For the purposes of this Section, it is presumed that the ingredients in a container are, in fact, the ingredients listed on the label of the container or the ingredients listed for that substance in databases maintained or relied upon by a poison control center certified by a national association of poison control centers.
- (f) A person who violates this Section commits a petty misdemeanor.
- (g) A juvenile court may require a minor found in violation of this Section be provided with treatment and counseling.”

Section 8. Repeals. The following Sections of Title 9 of the Guam Code Annotated are hereby *repealed* to allow for the effective implementation of therapeutic drug courts on Guam: §§ 80.33.11, 80.33.12 and 80.33.13. These Sections are hereby *repealed* effective the date of enactment of this Act.

Section 9. Sunset Provision. Sections 2, 4 and 5 of this Act shall expire on September 30, 2004, and shall be deemed repealed *unless* re-authorized by statute.

Section 10. Severability. *If* any provision of this Law or its application to any person or circumstance is found to be invalid or contrary to law, such invalidity shall *not* affect other provisions or applications of this Law which can be given effect without the invalid provisions or application, and to this end the provisions of this Law are severable.