



CARL T.C. GUTIERREZ
GOVERNOR OF GUAM

OFFICE OF THE LEGISLATIVE SECRETARY
 ACKNOWLEDGMENT RECEIPT
 Received By J. Lopez
 Time 4:35
 Date 4/29/96


APR 29 1996

The Honorable Speaker
 Twenty-Third Guam Legislature
 Guam Legislature Temporary Building
 155 Hesler Street
 Agana, Guam 96910

Dear Speaker:

Enclosed please find a copy of Substitute Bill No. 193 (LS), "AN ACT TO ADD A NEW CHAPTER 48 TO TITLE 17, GUAM CODE ANNOTATED; AND TO ADD NEW §§80.33.01, 80.33.02, AND 80.33.03 TO TITLE 9, GUAM CODE ANNOTATED; RELATIVE TO ESTABLISHING 'DRUG FREE SCHOOL ZONES' AND PROVIDING FOR RELATED PENALTIES", which I have numbered as **Public Law No. 23-87**.

Very truly yours,


 Carl T. C. Gutierrez
 Governor of Guam

Attachment

231100

Office of
 VICE-SPEAKER THOMAS WILSON
 Received
 by bobbi
 Print Name bc
 Initial initial
 Date: 4-29-96 Time: 4:20pm

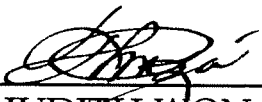
TWENTY-THIRD GUAM LEGISLATURE
1996 (SECOND) Regular Session

This is to certify that Substitute Bill No. 193 (LS), "AN ACT TO ADD A NEW CHAPTER 48 TO TITLE 17, GUAM CODE ANNOTATED; AND TO ADD NEW §§80.33.01, 80.33.02, AND 80.33.03 TO TITLE 9, GUAM CODE ANNOTATED; RELATIVE TO ESTABLISHING "DRUG FREE SCHOOL ZONES" AND PROVIDING FOR RELATED PENALTIES," returned to the Legislature without approval of the Governor, was reconsidered by the Legislature and after such reconsideration, the Legislature did, on the 19th day of April, 1996, agree to pass said bill notwithstanding the objection of the Governor by a vote of twenty-one (21) members.



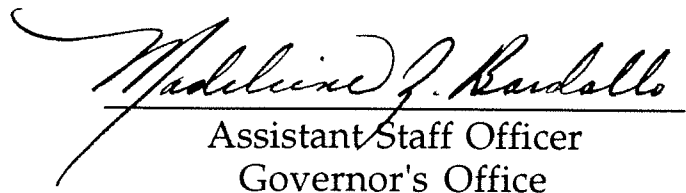
TED S. NELSON
Acting Speaker

Attested:



JUDITH WON PAT-BORJA
Senator and Legislative Secretary

This Act was received by the Governor this 26 day of April,
1996, at 6:00 o'clock P.M.



Assistant Staff Officer
Governor's Office

TWENTY-THIRD GUAM LEGISLATURE
1995 (FIRST) REGULAR SESSION

Bill No. 193 (LS)
As substituted by the Committee on
Judiciary, Criminal Justice and
Environmental Affairs

Introduced by:

H. A. Cristobal
J. Won Pat-Borja
L. Leon Guerrero
T.C. Ada
T. S. Nelson
S. L. Orsini
J. P. Aguon
E. Barrett-Anderson
A. C. Blaz
J. M. S. Brown
F. P. Camacho
M. C. Charfauros
M. Forbes
A. C. Lamorena V
C. A. Leon Guerrero
V. C. Pangelinan
D. Parkinson
J. T. San Agustin
A. L. G. Santos
F. E. Santos
A. R. Unpingco

AN ACT TO ADD A NEW CHAPTER 48 TO TITLE 17,
GUAM CODE ANNOTATED; AND TO ADD NEW
§§80.33.01, 80.33.02, AND 80.33.03 TO TITLE 9, GUAM
CODE ANNOTATED; RELATIVE TO ESTABLISHING
"DRUG FREE SCHOOL ZONES" AND PROVIDING
FOR RELATED PENALTIES.

1 **BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:**

1 **Section 1. Legislative Statement and Intent.** The abuse of drugs by our
2 youth has reached a near state of emergency here on Guam. Drug abuse and
3 its related activities directly threaten the safety of Guam's students; students
4 who abuse drugs are risking serious damage to their health and even risking
5 death; and students who attend schools where drugs are used or sold find
6 themselves surrounded by drug related violence. Drug use in our schools
7 detracts from the efforts of many hardworking school personnel and students
8 to create an atmosphere where a good education is the top priority and the
9 highest achievement.

10 The Legislature recognizes the efforts of the Department of Education
11 (DOE) and other agencies in fighting the drug problem in schools. DOE's
12 "Just Say No" program, the DARE program, and other anti-drug education
13 programs are examples of how students and adults together are waging the
14 campaign against drugs in schools. These programs, however, could always
15 use further support and further measures to ensure the safety of Guam's
16 students and to fight the war against drugs, against violence, and against
17 crime in general in our educational system.

18 The Legislature finds that its interests in protecting Guam's students
19 from the drug use epidemic are not isolated. In fact, one of the six main
20 national educational goals adopted in 1989 by the U.S. federal government
21 was that every school in America be free of drugs and violence by the year
22 2000; the Legislature agrees wholeheartedly with this goal.

23 The Legislature, then, in an effort to join forces with parents and
24 students, hereby establishes drug free school zones in or near our schools,
25 their accompanying grounds, and other designated areas. Persons who
26 possess, use, deliver, sell, or transport illegal drugs in or around Guam's
27 schools shall face stricter and harsher penalties including longer prison terms.

1 Minors who violate the drug free school zones policy may be, at the discretion
2 of the courts, subjected to more extensive community service, and they may
3 even be tried as adults if a judge believes that to be in the best interest of the
4 student, the school, and the public in general. Furthermore, school personnel
5 will have a greater responsibility to report drug offenses and violations
6 immediately or face certain penalties.

7 The intent of the Drug Free School Zones Act is to rid Guam's schools of
8 the drug problems which run rampant in all other facets of our community.
9 The Legislature hopes that, through passage of this Act, Guam's students will
10 enjoy a safer learning environment in their schools, administrators will have
11 a stronger mandate to continue the war against illegal drugs, and parents
12 will be reassured that their children are protected the minute they set foot
13 upon school grounds. In the end, the Legislature intends the stricter penalties
14 to deter the abuse of drugs and its related violence in Guam's educational
15 systems.

16 **Section 2. Drug-Free School Zones.** A new Chapter 48 is hereby added
17 to Title 17, Guam Code Annotated, to read:

18 **"Chapter 48**

19 **DRUG FREE SCHOOL ZONES**

20 §48000. Title.

21 §48001. Definitions.

22 §48002. Establishment of Drug Free School Zones.

23 §48003. Designation of School Zones: Responsibilities of the
24 Schools.

25 §48004. Drug Free School Zone Maps.

26 §48000. Title. This Chapter shall be known as the "Drug Free
27 School Zones Act."

1 **§48001. Definitions.** The following terms shall have the
2 following meanings within this chapter unless the definition is
3 manifestly inapplicable within the general context in which it is used.

4 1) *Drug free school zone* means any area within five
5 hundred (500) feet of a school or its accompanying grounds, at a
6 school bus stop or on any school bus or bus which transports
7 pupils to any school.

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

12 a) *Public School* means any school established under
13 the laws of the territory, maintained at the public expense by
14 taxation, and open to the children of the residents of the
15 territory and its respective districts.

16 b) *Private School* means any school maintained by
17 private individuals, religious organizations, or
18 corporations, not at public expense, and open only to pupils
19 selected and admitted by the proprietors or governors, or to
20 pupils possessing certain qualifications, and generally
21 supported, at least in part, by tuition fees or charges.

22 3) *Accompanying grounds* means the respective campuses,
23 recreational areas, athletic fields, student housing, or other
24 property of each school which are owned, used, or operated by
25 their respective governing boards of the schools or chief
26 administrative officers in the case of private schools.

1 **§48002. Establishment of Drug Free School Zones.** There is
2 hereby established a drug free school zone within a five hundred (500)
3 foot area of any school or its accompanying grounds, within a one
4 hundred (100) foot area of a school bus stop, or within any school bus or
5 bus which transports pupils to any school. A person who commits an
6 offense under Chapter 67 of Title 9, Guam Code Annotated, within the
7 drug free school zone shall be in violation of this section.

8 **§48003. Designation of School Zones: Responsibilities of the**
9 **Schools.** The following provisions shall apply relative to the
10 coordination, establishment, and designation of drug free school
11 zones:

12 (a) It shall be the responsibility of schools, both public and
13 private, and their respective governing boards or their designees,
14 or the chief administrative officer in the case of private schools, to
15 coordinate the establishment and designation of the drug free
16 school zones.

17 (b) The respective governing boards of the schools, or the
18 chief administrative officer in the case of private schools, shall
19 place and maintain permanently affixed and plainly visible signs
20 at the main entrances of each school which identify the school and
21 its accompanying grounds as a drug free school zone and which
22 outline the penalties associated with violations of the Drug Free
23 School Zones Act. The respective governing boards of the schools,
24 or the chief administrative officer in the case of private schools,
25 shall determine the actual size of such signs.

26 (c) Upon enactment, a copy of the Drug Free School Zones
27 Act shall be transmitted to the respective governing boards, or the

1 chief administrative officers in the case of private schools, and it
2 shall be their responsibility, at their discretion, to disseminate the
3 information to parent groups and to the community.

4 (d) The respective governing boards of the schools, or the
5 chief administrative officer in the case of private schools, shall
6 transmit to the Legislature, within ninety (90) days, a status report
7 on the establishment and designation of the drug free school
8 zones within their respective jurisdictions.

9 **§48004. Drug Free School Zone Maps.** The respective governing
10 boards of the schools or their designees, or the chief administrative
11 officer in the case of any private school, shall prepare drug free school
12 zone maps for their respective jurisdictions and shall submit copies of
13 the original maps to the Office of the Attorney General as well as to the
14 Department of Land Management for the purposes of record-keeping.
15 These shall constitute the official record as to the location and
16 boundaries of each drug free school zone. The respective governing
17 boards of the schools or their designees, or the chief administrative
18 officer in the case of any private school, shall notify the Office of the
19 Attorney General and the Department of Land Management
20 whenever there are changes in the location and boundaries of any
21 school property and drug free school zone."

22 **Section 3. Penalties for Violations of Drug Free School Zones Act.** A
23 §80.33.01 is hereby added to Chapter 80 of Title 9, Guam Code Annotated, to
24 read:

25 "§80.33.01. **Penalties for Violations of Drug Free School Zones**
26 **Act.** A person who violates the provisions of §48002 of Chapter 48, Title
27 17, GCA, is guilty of the same class of felony as set out in Article 2,

1 Chapter 80, Title 9, GCA that the person would otherwise be guilty of
2 had the violation not occurred within a drug free school zone, but the
3 minimum, maximum, and presumptive sentence for that violation shall
4 be increased by no less than five (5) years. A person convicted of
5 violating §48002 of Chapter 48, Title 17, GCA, shall not be eligible for
6 suspension of sentence, probation, pardon or release from confinement
7 on any basis until the sentence imposed by the court has been served or
8 commuted. The additional sentence imposed under this section shall
9 not run concurrently with the original sentence nor any other additional
10 sentence which may otherwise be applicable."

11 **Section 4. Penalties for Failure to Report Violations of the Drug Free**
12 **School Zones Act.** A new §80.33.02 is hereby added to Chapter 80 of Title 9,
13 Guam Code Annotated, to read:

14 "§80.33.02. **Failure to Report Violations of the Drug Free School**
15 **Zones Act.** Any school personnel who observe a violation of the Drug
16 Free School Zones Act shall immediately report the violation to a school
17 administrator. The administrator shall immediately report the
18 violation to a peace officer. It is unlawful for any school personnel or
19 school administrator to knowingly fail to report a violation as
20 prescribed in this section. A person who violates this section is guilty of
21 a misdemeanor."

22 **Section 5. Penalties for Minors in Violation of the Drug Free School**
23 **Zones Act.** A new §80.33.03 is hereby added to Chapter 80 of Title 9, Guam
24 Code Annotated, to read:

25 "§80.33.03. **Penalties for Minors in Violation of the Drug Free**
26 **School Zones Act.** It is the intent of the Drug Free School Zones Act
27 ("the Act") to penalize any person, including minors, determined by the

1 courts to be in violation of the provisions of §48002, Chapter 48, Title 17,
2 Guam Code Annotated. Any minor who commits an offense under the
3 Act is guilty of the same or similar offense that he would have been
4 guilty of if the offense had taken place outside of a drug free school
5 zone. It is hereby recommended, at the discretion of the individual
6 judge in cases involving juveniles who violate the Act, that a minimum
7 sentence of one hundred (100) hours of community service be rendered
8 in addition to the basic sentence which would otherwise have been
9 issued if the violation had occurred outside a drug free school zone."

10 **Section 6. Effective Date.** The provisions of this Act shall become
11 effective immediately upon enactment.

Date: 4/19/96

VOTING SHEET

✓ Bill No. 193

Resolution No. _____

Question: shall vetoed Bill 193 be enacted into law notwithstanding the Governor's objection?

NAME	YEAS	NAYS	NOT VOTING/ ABSTAINED	ABSENT/ OUT DURING ROLL CALL
ADA, Thomas C.	✓			
AGUON, John P.	✓			
BARRETT-ANDERSON, Elizabeth	✓			
BLAZ, Anthony C.	✓			
BROWN, Joanne S.	✓			
CAMACHO, Felix P.	✓			
CHARFAUROS, Mark C	✓			
CRISTOBAL, Hope A.	✓			
FORBES, - MARK	✓			
LAMORENA, Alberto C., V	✓			
LEON GUERRERO, Carlotta	✓			
LEON GUERRERO, Lou	✓			
NELSON, Ted S.	✓			
ORSINI, Sonny L.	✓			
PANGELINAN, Vicente C	✓			
PARKINSON, Don	✓			
SAN AGUSTIN, Joe T.	✓			
SANTOS, Angel L. G.	✓			
SANTOS, Francis E.	✓			
UNPINGCO, Antonio R.	✓			
WONPAT-BORJA, Judith	✓			

TOTAL

21 0 0 0

CERTIFIED TRUE AND CORRECT:

Recording Secretary



CARL T.C. GUTIERREZ
GOVERNOR OF GUAM

MAR 12 1996

The Honorable Ted S. Nelson
Acting Speaker
Twenty-Third Guam Legislature
Guam Legislature Temporary Building
155 Hesler Street
Agana, Guam 96910

OFFICE OF THE LEGISLATIVE SECRETARY	
ACKNOWLEDGMENT RECEIPT	
Received By	<u>[Signature]</u>
Time	<u>2:10</u>
Date	<u>3-12-96</u>

Dear Speaker Nelson:

Enclosed please find Substitute Bill No. 193 (LS), "AN ACT TO ADD A NEW CHAPTER 48 TO TITLE 17, GUAM CODE ANNOTATED; AND TO ADD NEW §§80.33.01, 80.33.02, AND 80.33.03 TO TITLE 9, GUAM CODE ANNOTATED; RELATIVE TO ESTABLISHING 'DRUG FREE SCHOOL ZONES' AND PROVIDING FOR RELATED PENALTIES", which I have **vetoed**.

I am sorry to have to veto a bill that was passed in an effort to step up the "War on Ice". I am glad that the Legislature is trying to cope with the problem of illegal drug use on our island. Previously, I was pleased to sign Public Law Nos. 23-58 and 23-60 in December, 1995. Both of these laws dealt with the problem of drug usage on our island; one provided mandatory sentencing for the possession of "ice", and the other provided drug testing and treatment programs.

The law which would result from the passage of Substitute Bill No. 193 would be unconstitutionally vague. The provisions of Substitute Bill No. 193 are also not integrated into existing statutes on the books, thereby causing confusion to prosecutors, defendants, judges, and juries. This would allow drug offenders to successfully challenge the statute and thereby evade conviction and sentencing.

In order to devise a "Drug Free School Zone" concept that can really work, more in depth consideration of the concept needs to take place. Attached is a copy of comments on Substitute Bill No. 193 submitted by the Acting Chief Prosecutor of the Department of Law, for the legislature's consideration for possible future legislation.

Very truly yours,

[Signature]
Carl T. C. Gutierrez

Attachments
231043

VICE-SPEAKER	
TED S. NELSON	
Print Name	<u>[Signature]</u>
Initial	<u>[Initials]</u>
Date	<u>3-12-96</u>
Time	<u>1:30p</u>



Ufsinan Hinirát Abugao
Tiritorian Guðhan

Calvin E. Holloway, Sr.
Hinirát Abugao
Attorney General

Office of the Attorney General
Territory of Guam
Prosecution Division

Phone: (671) 475-3406
Telefax: (671) 477-3390
FTS: (671) 472-7595

March 11, 1996

DELIVERED BY FAX

Mary Louise Wheeler
Legal Counsel-Governor's Office
Territory of Guam

RE: Drug Free School Zone Bill

Dear Ms. Wheeler:

Buenas Yan Hafa Adai!

Per your request this day, my staff and I provide the following comments about the above bill.

Given the epidemic of "ice" on the island, I would like to see such a bill, however the following may be problems with this particular version.

- 1) Sec. 80.33.01 is inorganic in that it prohibits pardons which are allowed under 48 U.S.C. Sec 1422.
- 2) Sec. 80.33.01 is vague and unclear whether misdemeanor drug offenses are to be enhanced. If so, then the law is unconstitutionally vague. This section also seems to say in the first sentence that the underlying crime is to be elevated. The last sentence indicates it is a separate enhancement. We suspect a judge would rule this section unconstitutional.
- 3) Sec. 48002 includes generally that the law includes any school bus stop. This could include randomly changing places depending on the time of day or type of weather. This provision is open to severe attacks on its



Letter to Mary Louis Wheeler, Legal Counsel-Governor's Office
RE: Drug Free School Zone Bill
March 11, 1996
Page 2

application. Imagine if you will, defense attorneys coming to court with tape measures as defenses to this section. The area included in such a drug free school zone must be clearly marked.

- 4) Sec. 80.33.01 is much broader than is constitutionally sound. We are unclear about the meaning and effect of this section. The prosecutors who reviewed this section could not agree to its effect except to say that it would be challenged. Given some time, we can draft language that is clear and concise.
- 5) Sec. 80.33.03 gives breaks to juveniles under this bill. It is our experience that the 16 or 17 year olds are the ones selling the drugs. This age is automatically certifiable as adults and the bill essentially undercuts prosecution of these kids.
- 6) This bill may be in direct conflict with 9 G.C.A. Sec. 67.62.
- 7) The bill fails to include notice provisions which are essential to give potential violators notice of criminal conduct.

As prosecutors, we endorse and applaud a bill making drug free school zones. There are similar laws in the states which I am familiar with. However, without adequate time to research these laws I cannot say what is missing from this bill which should be included and what is included that should be deleted. We want the legislature to enact such a bill, however it should be carefully drafted so legal challenges are minimal. This bill simply has too many ambiguous areas to be consistently enforceable.

These are some comments and potential problems with this bill. My prosecutors are excited about the prospect of a bill of this type, however it must be legally sustainable. We suspect this bill would face severe challenges in its application.

If my office can be of help drafting the appropriate version of his bill, please call.

Dangkolo Na Agradesimo - Thank You Very Much!

Sincerely,


STEPHEN D. MAXWELL
Chief Prosecutor (Acting)

 cc: Attorney General

TWENTY-THIRD GUAM LEGISLATURE

1996 (SECOND) Regular Session

Date: 2/28/96

VOTING SHEET

Bill No. 193

Resolution No. _____

Question: _____

NAME	YEAS	NAYS	NOT VOTING/ ABSTAINED	ABSENT/ OUT DURING ROLL CALL
ADA, Thomas C.	✓			
AGUON, John P.	✓			
BARRETT-ANDERSON, Elizabeth	✓			
BLAZ, Anthony C.	✓			
BROWN, Joanne S.	✓			
CAMACHO, Felix P.	✓			
CHARFAUROS, Mark C	✓			
CRISTOBAL, Hope A.	✓			
FORBES, MARK	✓			
LAMORENA, Alberto C., V	✓			
LEON GUERRERO, Carlotta	✓			
LEON GUERRERO, Lou	✓			
NELSON, Ted S.	✓			
ORSINI, Sonny L.	✓			
PANGELINAN, Vicente C	✓			
PARKINSON, Don	✓			
SAN AGUSTIN, Joe T.	✓			
SANTOS, Angel L. G.	✓			
SANTOS, Francis E.	✓			
UNPINGCO, Antonio R.	✓			
WONPAT-BORJA, Judith	✓			

TOTAL 21 0 0 0

CERTIFIED TRUE AND CORRECT:

Recording Secretary

PL 23-87

Senator Mark C. Charfauros

Chairman

Committee on Judiciary, Criminal Justice and Environmental Affairs

Twenty-Third Guam Legislature

Tel.: (671) 472-3342/3/5

Fax: (671) 472-3440

February 12, 1996

SPEAKER DON PARKINSON
Twenty-Third Guam Legislature
155 Hesler St.
Agana, Guam 96910

Dear Mr. Speaker:

The Committee on Judiciary, Criminal Justice and Environmental Affairs to which was referred **Bill No. 193**, wishes to report back to the Legislature with its recommendation to pass **Bill No. 193** - As substituted by the Committee "AN ACT TO ADD A NEW CHAPTER 48 TO TITLE 17, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING "DRUG FREE SCHOOL ZONES" AND PROVIDING FOR RELATED PENALTIES."

The voting record is as follows:

TO PASS	<u>9</u>
NOT TO PASS	<u>0</u>
ABSTAIN	<u>0</u>
TO PLACE IN INACTIVE FILE	<u>0</u>

Copies of the Committee Report and other pertinent documents are attached.

Your attention to this matter is greatly appreciated.



MARK C. CHARFAUROS

Attachments

Senator Mark C. Charfauros

Chairman

Committee on Judiciary, Criminal Justice and Environmental Affairs
Twenty-Third Guam Legislature

Tel.: (671) 472-3342/3/5

Fax: (671) 472-3440

February 1, 1996

MEMORANDUM

TO: Members

FROM: Chairman

SUBJECT: Committee Report - **Bill No. 193- As substituted by the Committee**
"AN ACT TO ADD A NEW CHAPTER 48 TO TITLE 17, GUAM CODE ANNOTATED,
RELATIVE TO ESTABLISHING "DRUG FREE SCHOOL ZONES" AND PROVIDING FOR
RELATED PENALTIES."

Transmitted herewith for your information and action is the Committee on Judiciary, Criminal Justice and Environmental Affairs' Report on the subject Bill.

The narrative report is accompanied by the following:

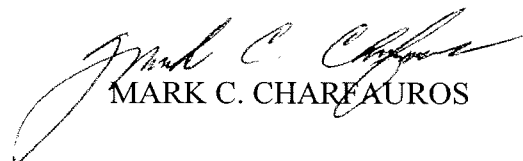
1. Original Bill 193; Bill 193 As substituted by the Committee;
2. Committee Voting Sheet;
3. Testimony and Sign-in Sheet
4. Public Hearing Notice.

Should you have any questions on the narrative report or the accompanying documents, I would be most happy to answer any of them.

Please take the appropriate action on the attached voting sheet and return the documents to my office for transmittal to the other members.

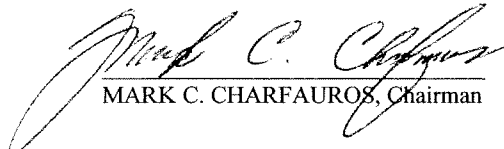
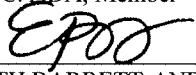

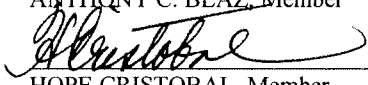

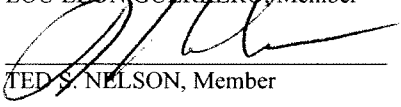
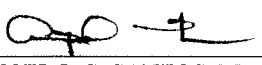
Your attention and cooperation in this matter is greatly appreciated.

Attachments.


MARK C. CHARFAUROS

**COMMITTEE ON JUDICIARY, CRIMINAL JUSTICE AND
ENVIRONMENTAL AFFAIRS
23rd Guam Legislature
VOTING RECORD**

Bill No. 193- As substituted by the Committee "AN ACT TO ADD A NEW CHAPTER 48 TO TITLE 17, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING "DRUG FREE SCHOOL ZONES" AND PROVIDING FOR RELATED PENALTIES."

	<u>TO PASS</u>	<u>NOT TO PASS</u>	<u>ABSTAIN</u>	<u>INACTIVE FILE</u>
 MARK C. CHARFAUROS, Chairman	✓	—	—	—
JUDITH WONPAT-BORJA, Vice-Chairperson	—	—	—	—
 THOMAS C. ADA, Member	✓	—	—	—
 ELIZABETH BARRETT-ANDERSON, Member	✓	—	—	—
 JOANNE BROWN, Member	✓	—	—	—
ANTHONY C. BLAZ, Member	—	—	—	—
 HOPE CRISTOBAL, Member	✓	—	—	—
 A. TONY LAMORENA, Member	✓	—	—	—
 LOU LEON GUERRERO, Member	✓	—	—	—
 TED S. NELSON, Member	✓	—	—	—
VICENTE C. PANGELINAN, Member	—	—	—	—
 ANGEL L.G. SANTOS, Member	✓	—	—	—
DON PARKINSON, Ex-Officio Member	—	—	—	—

COMMITTEE ON JUDICIARY, CRIMINAL
JUSTICE AND ENVIRONMENTAL
AFFAIRS

Twenty-Third Guam Legislature

COMMITTEE REPORT

on

Bill No. 193

As substituted by the Committee

"AN ACT TO ADD A NEW CHAPTER 48 TO TITLE 17, GUAM CODE ANNOTATED,
RELATIVE TO ESTABLISHING "DRUG FREE SCHOOL ZONES" AND PROVIDING FOR
RELATED PENALTIES."

MAY 22, 1995

I. OVERVIEW

The Committee on Judiciary, Criminal Justice and Environmental Affairs scheduled a public hearing on May 22, 1995 at 9:30 a.m. at the Legislative Public Hearing Room. Public notice was announced on the May 21, 1995 issue of the PDN. Members present were:

Senator Mark C. Charfauros, Chairman
Senator Judith WonPat-Borja, Vice-Chairperson
Senator Tom Ada
Senator Ted S. Nelson
Senator Ben Pangelinan
Senator Joanne Brown
Senator Tony Lamorena
Senator Elizabeth Barrett-Anderson

Appearing before the Committee to testify on the bill was:

No Public Participation

II. SUMMARY OF TESTIMONY

Written testimony was submitted by the Honorable Alberto C. Lamorena III, Presiding Judge of the Superior Court of Guam, who strongly endorsed the passage of Bill 193. In his 1995 State of the Judiciary address, Judge Lamorena warned about the need to fight the abuse of drugs on Guam, especially the use of crystal methamphetamine, otherwise known as "ice." He cited Bill 193 as an 'excellent start' to tackling this problem and protecting those especially who could not protect themselves from the drug problem. In closing, he suggested adding mandatory fines and community service for convicted offenders of the drug free school zones measure.

III. FINDING AND RECOMMENDATION

All three branches of government have been united in placing the fight against drugs and drug abuse at the top of the list of priorities. Currently, the use, sales, and trafficking of illegal substances, especially of crystal methamphetamine (or 'ice'), have pervaded all aspects of our island society and have contributed to an increase in violence, theft, and other crimes in our communities. Dangerously, Guam has even seen the drugs and drug use becoming more evident in our island's schools and among our youth. Bill 193 takes a step towards fighting the drug problem in our school system.

Original Bill 193 set up a basic framework from which to approach the issue of how to keep drugs off school campuses and their related properties. The bill establishes drug free school zones within 500 feet of any public or private school property as well as at bus stops or on buses which service the island's schools. Anyone who is convicted of a drug offense in a drug free school zone automatically receives a stricter penalty for that offense than if he would have received if such offense occurred outside of the drug free school zone.

Bill 193, as substituted by the Committee, maintains the basic framework of the original bill but goes further in filling in the details of how these drug free school zones will be maintained and in how punishment for various offenses in drug free school zones will be administered.

Bill 193 (as substituted by the Committee):

- Becomes "The Drug Free School Zones Act of 1996";
- Establishes drug free school zones within 500 feet of any school and its accompanying grounds;
- Makes it unlawful for any person to use, possess, deliver, or sell illegal drugs within drug free school zones;
- Makes school boards, or chief administrative officers of private schools, responsible for designating school zones, maintaining permanent signs, disseminating information to the general public, and submitting required status reports to the Legislature;
- Makes school boards, or chief administrative officers of private schools, responsible for preparing drug free school zone maps for their respective jurisdictions and submitting copies to the Office of the Attorney General and to

the Department of Land Management;

- Adds a non-concurrent sentence of five (5) years to the sentence imposed by the court for a drug offense if that drug offense is committed in a drug free school zone and withholds eligibility for suspension of sentence, probation, pardon, or commutation of the sentence from drug free school zone offenders;
- Makes it a misdemeanor for school personnel to fail to report violations of the drug free school zones;
- Recommends to juvenile court judges to add 100 hours of community service to whatever sentence is originally imposed for a drug offense that takes place in a drug free school zone; and
- Allows minors to be tried as adults for violations of the Drug Free School Zones Act of 1996.

The substitute Bill 193 not only increases penalties for drug offenses committed in drug free school zones, but it also takes steps to deal with drug offenses committed by minors in our schools and to ensure the participation of school personnel in helping enforce the drug free measures.

This Committee finds that drugs are becoming increasingly available in our schools. The abuse of drugs by the island's youth continues to grow each year, and with this growth comes an increase in crime. The Committee finds that in order to curtail such an epidemic as is occurring today in our educational system, legislation which focuses on fighting the use and abuse of drugs in our schools is necessary.

Accordingly, the Committee on Judiciary, Criminal Justice, and Environmental Affairs, to which was referred **Bill 193**, does hereby submit its findings and recommendation to the Twenty-Third Guam Legislature **TO DO PASS Bill 193 As substituted by the Committee** "AN ACT TO ADD A NEW CHAPTER 48 TO TITLE 17, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING "DRUG FREE SCHOOL ZONES" AND PROVIDING FOR RELATED PENALTIES."



COMMITTEE ON RULES

Twenty-Third Guam Legislature
155 Hesler St., Agana, Guam 96910

March 22, 1995

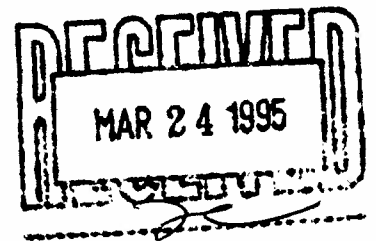
MEMORANDUM

TO: Chairperson, Committee on Judiciary, Criminal Justice
and Environmental Affairs

FROM: Chairman, Committee on Rules

SUBJECT: Referral - Bill No. 193

The above Bill is referred to your Committee as the principal committee. Please note that the referral is subject to ratification by the Committee on Rules at its next meeting. It is recommended you schedule a public hearing at your earliest convenience.




SONNY LUJAN ORSINI

Attachment

TWENTY-THIRD GUAM LEGISLATURE
1995 (FIRST) REGULAR SESSION

BILL NO. 193

Introduced by:

H.A. CRISTOBAL *H. Cristobal*
Wanda Boria *Wanda Boria*
Lou Leon *Lou Leon*
2. C. *2. C. C.*

AN ACT TO ADD A NEW CHAPTER 48, TITLE XVII GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING AND DESIGNATING "DRUG-FREE SCHOOL ZONES" THROUGHOUT GUAM'S SCHOOLS, THROUGH PROHIBITING THE POSSESSION OF OR USE OF DRUGS WITHIN SUCH SPECIFIED AREAS IMMEDIATELY SURROUNDING THE SCHOOLS, FURTHER INSURING THE SAFETY OF SCHOOL CHILDREN; THIS PROVISION SHALL HEREBY BY DESIGNATED AS THE "DRUG-FREE SCHOOL ZONE." AND TO ADD A NEW SECTION 33.11 TO CHAPTER 80, TITLE IX, GCA, RELATIVE TO PUNISHMENT IMPOSED FOR DRUG OFFENSES IN CHAPTER 48, TITLE XVII.

1 BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:
2

3 Section 1. Legislative Statement.
4

5 The abuse of drugs by our youths continues to be a major problem on
6 Guam. Drug abuse and related criminal activity directly threaten the health and safety of
7 Guam's students. Students who abuse drugs risk serious damage to their health or even
8 death. Students who attend schools where drugs are used or sold are often exposed to
9 drug related violence. The abuse of drugs by our youth significantly detracts from
10 educational achievements and is a major contributing factor in dropping out from school
11 resulting in more and more of our young people not being prepared for jobs which require
12 increasing complex skills. Drug abuse not only threatens the future of individual children,
13 it undermines and threatens the strength of our society as a whole.

14 The Legislature further notes that the Department of Education's "Just Say

15 No" program, the DARE program and other anti-drug education programs are in need of
16 support in ensuring the safety of Guam's students and in fighting drugs, gang activity and
17 drug- related crime in and around schools.

18 The Legislature finds that as part of the six National Educational Goals
19 adopted in 1989, the sixth goal is, "By the year 2000, every school in America will be free
20 of drugs and violence and will offer a disciplined environment conducive to learning." A
21 disciplined environment is greatly enhanced with the designation of drug-free school
22 zones, the key being to create an atmosphere in which students and teachers are
23 engaged in learning and where drug related criminal activity is dealt with quickly, firmly
24 and fairly.

25 Further, it is found that law enforcement officials and the courts need
26 guidance on the penalties associated with drug-related criminal activity in the schools.
27 One effective means is the establishment of Drug-Free Schools Zones with increased
28 penalties for drug-related criminal activities on or near school property.

29 **Section 2. Legislative Intent.**

30 The Guam Legislature finds that enacting legislation to establish drug-free
31 school zones in or near school grounds, public or private, or bus stops, and other such
32 areas in which severe criminal penalties are imposed on individuals determined to be in
33 possession or use of drugs as stated in Chapters 67 and 80, of Title 9, GCA within the
34 identified school, bus stop, and other such zones is necessary in aiding in the deterrence
35 and prevention of drug abuse, violence, gang activity and other drug related criminal
36 activities in our island's schools. The Legislature further believes that more stringent
37 penalties should be established to prevent any individual from possessing or utilizing

38 drugs or alcohol within the designated drug-free school, bus stop, or other such zones.
39 Therefore this provision would provide for stringent criminal penalties for individuals
40 determined to be unlawfully possessing, using, transferring or selling drugs within
41 designated drug-free school zones; and would require the coordination between the Guam
42 Police Department, Department of Education, and other schools in the enforceability and
43 compliance of the provisions of this Act.

44 **Section 3. Drug-Free School Zones.**

45 A new Chapter 48, of Title 17, Guam Code Annotated is hereby enacted to read
46 as follows:

47 **Chapter 48**

48 § 48000 **Drug-Free School Zones**

49 § 48101 **Definitions**

50 § 48102 **Establishment of Drug Free School Zones**

51 § 48103 **Restrictive Penalty Provisions**

52 § 48104 **Coordination of Government Entities**

53

54 § 48101 **Definitions.** The following terms shall have the following meanings
55 within this chapter unless, within the context, the definition is manifestly inapplicable.

56 a) **Drug-Free School Zone** - - - Any public or private school building, bus stop
57 or bus, public or private school campus, grounds, recreational area, athletic field or other
58 property owned, used or operated by the Guam Territorial Board of Education, Guam
59 Community College Board of Trustees, or the University of Guam Board of Regents, or
60 Directors for the administration of any public or private educational institution.

61 b) Students - - - A person enrolled in a public or private school, college or
62 university, or a person who has been suspended or expelled within the last five years
63 from a public or private school, college or university, whether the person is an adult or a
64 minor.

65 c) Drugs - - - As defined in Chapters 67 and 80, Title 9, GCA.

66
67 **§ 48102 Establishment of Drug-Free School Zones.**

68 There is hereby established a "Drug-Free School Zone" within five hundred (500)
69 feet of any area designated as any public or private school building, bus stop or bus,
70 public or private school campus, grounds, recreational area, athletic field or other property
71 owned, used or operated by the Guam Territorial Board of Education, Guam Community
72 College Board of Trustees, or the University of Guam Board of Regents, or Directors for
73 the administration of any public or private educational institution.

74
75 **§ 48103 Restrictive Penalty Provisions**

76 It shall be a felony to possess, carry, sell or transfer, whether openly or concealed
77 any drugs on designated Drug Free School Zones. However, this section does not apply
78 to prescription drugs.

79 It shall be a felony for any person to cause, encourage or aid a minor to possess,
80 carry, sell or transfer, whether openly or concealed, any drugs on designated Drug Free
81 School Zones. However, this section does not apply to prescription drugs.

82
83

84 **§ 48104 Coordination of Government Entities.**

85 It shall be the responsibility of respected schools, public or private, to coordinate
86 the establishment and designation of the "Drug-Free School Zone." Coordination and
87 designation of the "Drug -Free School Zone." as provided in section 48102 of this Act.
88 Following the designation of the drug free school zone area, respective schools shall
89 notify the Guam Police Dept of such designated areas. The Guam Police Dept is hereby
90 instructed to work collectively with the island schools to ensure the effective compliance
91 and enforcement of the provisions set forth in this Act respective schools shall be
92 responsible for the construction and erection of "Drug Free School Zone" signs and
93 symbols within their designated drug free school zone areas.

94

95 A new section 33.11 of Chapter 80 of Title 9, Guam Code Annotated is
96 hereby enacted to read as follows:

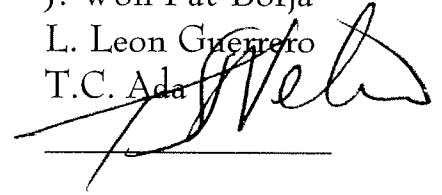
97 **§ 80.33.11** In addition to the punishment imposed for drug offenses as
98 stated in Chapters 67 and 80, Title 9, ~~GCA~~, a stricter penalty of imprisonment for a term
99 of not less that five (5) years nor more than twenty-five (25) years shall be imposed to
100 drug offenses committed in the area designated as a "Drug-Free School Zone."

TWENTY-THIRD GUAM LEGISLATURE
1995 (FIRST) REGULAR SESSION

Bill No. 193 (LS)
(as substituted by the Committee)

Introduced by:

H.A. Cristobal
J. Won Pat-Borja
L. Leon Guerrero
T.C. Ada



1 AN ACT TO ADD A NEW CHAPTER 48 TO TITLE 17, GUAM
2 CODE ANNOTATED, RELATIVE TO ESTABLISHING "DRUG
3 FREE SCHOOL ZONES" AND PROVIDING FOR RELATED
4 PENALTIES.

5

6 BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF
7 GUAM:

8

9 **Section 1. Legislative Statement and Intent.**

10 The abuse of drugs by our youth has reached a near state of emergency
11 here on Guam. Drug abuse and its related activities directly threaten the
12 safety of Guam's students; students who abuse drugs are risking serious
13 damage to their health and even risking death; and students who attend
14 schools where drugs are used or sold find themselves surrounded by drug
15 related violence. Drug use in our schools detracts from the efforts of many
16 hardworking school personnel and students to create an atmosphere where a
17 good education is the top priority and the highest achievement.

18 The Legislature recognizes the efforts of the Department of Education
19 (DOE) and other agencies in fighting the drug problem in schools. DOE's
20 "Just Say No" program, the DARE program, and other anti-drug education
21 programs are examples of how students and adults together are waging the
22 campaign against drugs in schools. These programs, however, could always
23 use further support and further measures to ensure the safety of Guam's

1 students and to fight the war against drugs, against violence, and against
2 crime in general in our educational system.

3 The Legislature finds that its interests in protecting Guam's students
4 from the drug use epidemic are not isolated. In fact, one of the six main
5 national educational goals adopted in 1989 by the U.S. federal government
6 was that every school in America be free of drugs and violence by the year
7 2000; the Legislature agrees wholeheartedly with this goal.

8 The Legislature, then, in an effort to join forces with parents and
9 students, hereby establishes drug free school zones in or near our schools,
10 their accompanying grounds, and other designated areas. Persons who
11 possess, use, deliver, sell, or transport illegal drugs in or around Guam's
12 schools shall face stricter and harsher penalties including longer prison terms.
13 Minors who violate the drug free school zones policy may be, at the
14 discretion of the courts, subjected to more extensive community service, and
15 they may even be tried as adults if a judge believes that to be in the best
16 interest of the student, the school, and the public in general. Furthermore,
17 school personnel will have a greater responsibility to report drug offenses and
18 violations immediately or face certain penalties.

19 The intent of the Drug Free School Zones Act is to rid Guam's
20 schools of the drug problems which run rampant in all other facets of our
21 community. The Legislature hopes that, through passage of this Act,
22 Guam's students will enjoy a safer learning environment in their schools,
23 administrators will have a stronger mandate to continue the war against
24 illegal drugs, and parents will be reassured that their children are protected
25 the minute they set foot upon school grounds. In the end, the Legislature
26 intends the stricter penalties to deter the abuse of drugs and its related
27 violence in Guam's educational systems.

28
29 **Section 2. Drug-Free School Zones.**

30 A new Chapter 48 is hereby added to Title 17, Guam Code
31 Annotated, to read:

32
33 **"Chapter 48**

34 **Section 48000. Title.**

35 **Section 48001. Definitions.**

36 **Section 48002. Establishment of Drug Free School Zones.**

- 1 3) **Accompanying grounds** means the respective
2 campuses, recreational areas, athletic fields, student
3 housing, or other property of each school which are
4 owned, used, or operated by their respective governing
5 boards of the schools or chief administrative officers in
6 the case of private schools.

7
8 **Section 48002. Establishment of Drug Free School Zones.**

9 There is hereby established a drug free school zone within a
10 five hundred (500) foot area of any school or its accompanying
11 grounds, at a school bus stop, or on any school bus or bus which
12 transports pupils to any school. Within the drug free school zone, it is
13 unlawful for any person to use, possess, deliver or have the intent to
14 deliver, and/or sell or have the intent to sell illegal drugs or any of the
15 controlled dangerous substances included in Schedules I and II of
16 Chapter 67, Title 9, Guam Code Annotated.

17
18 **Section 48003. Designation of School Zones: Responsibilities**
19 **of the Schools.**

20 The following provisions shall apply relative to the coordination,
21 establishment, and designation of drug free school zones:

- 22
23 (a) It shall be the responsibility of schools, both public and private,
24 and their respective governing boards or their designees, or the
25 chief administrative officer in the case of private schools, to
26 coordinate the establishment and designation of the drug free
27 school zones.
28
29 (b) The respective governing boards of the schools, or the chief
30 administrative officer in the case of private schools, shall place
31 and maintain permanently affixed and plainly visible signs at the
32 main entrances of each school which identify the school and its
33 accompanying grounds as a drug free school zone and which
34 outline the penalties associated with violations of the Drug Free
35 School Zones Act.

1 (c) Upon enactment, a copy of the Drug Free School Zones Act
2 shall be transmitted to the respective governing boards, or the
3 chief administrative officers in the case of private schools,
4 and it shall be their responsibility, at their discretion, to
5 disseminate the information to parent groups and to the
6 community.

7 (d) The respective governing boards of the schools, or the chief
8 administrative officer in the case of private schools, shall
9 transmit to the Legislature, within ninety (90) days, a status
10 report on the establishment and designation of the drug free
11 school zones within their respective jurisdictions.
12

13 **Section 48004. Drug Free School Zone Maps.**

14 The respective governing boards of the schools or their
15 designees, or the chief administrative officer in the case of any
16 private school, shall prepare drug free school zone maps for their
17 respective jurisdictions and shall submit copies of the original maps to
18 the Office of the Attorney General as well as to the Department of
19 Land Management for the purposes of record-keeping. These shall
20 constitute the official record as to the location and boundaries of
21 each drug free school zone. The respective governing boards of the
22 schools or their designees, or the chief administrative officer in the
23 case of any private school, shall notify the Office of the Attorney
24 General and the Department of Land Management whenever there are
25 changes in the location and boundaries of any school property and
26 drug free school zone.”
27

28 **Section 3. Penalties for Violations of Drug Free School Zones Act.**

29 A new section 80.33.01 is hereby added to Chapter 80 of Title 9,
30 Guam Code Annotated, to read:

31
32 “Section 80.33.01. Penalties for Violations of Drug Free
33 School Zones Act. A person who violates the provisions of Section
34 48002, Chapter 48, Title 17, GCA, is guilty of the same class of
35 felony as set out in Article 2, Chapter 80, Title 9 GCA that the
36 person would otherwise be guilty of had the violation not occurred

1 within a drug free school zone, but the minimum, maximum and
2 presumptive sentence for that violation shall be increased by no less
3 than five (5) years. A person convicted of violating Section 48002,
4 Chapter 48, Title 17 GCA, shall not be eligible for suspension of
5 sentence, probation, pardon or release from confinement on any basis
6 until the sentence imposed by the court has been served or commuted.
7 The additional sentence imposed under this section shall not run
8 concurrently with the original sentence nor any other additional
9 sentence which may otherwise be applicable.”

10
11 **Section 4. Penalties for Failure to Report Violations of the Drug**
12 **Free School Zones Act.**

13 A new Section 80.33.02 is hereby added to Chapter 80 of Title 9,
14 Guam Code Annotated, to read:

15
16 “Section 80.33.02. Failure to Report Violations of the
17 Drug Free School Zones Act. Any school personnel who observe a
18 violation of the Drug Free School Zones Act shall immediately
19 report the violation to a school administrator. The administrator shall
20 immediately report the violation to a peace officer. It is unlawful for
21 any school personnel or school administrator to fail to report a
22 violation as prescribed in this section. A person who violates this
23 section is guilty of a misdemeanor.”

24
25 **Section 5. Penalties for Minors in Violation of the Drug Free School**
26 **Zones Act.**

27 A new Section 80.33.03 is hereby added to Chapter 80 of Title 9,
28 Guam Code Annotated, to read:

29
30 “Section 80.33.03. Penalties for Minors in Violation of
31 the Drug Free School Zones Act. It is the intent of the Drug Free
32 School Zones Act (“the Act”) to penalize any person, including
33 minors, determined by the courts to be in violation of the provisions of
34 Section 48002, Chapter 48, Title 17, Guam Code Annotated. Any
35 minor who commits an offense under the Act is guilty of the same or
36 similar offense that he would have been guilty of if the offense had
37 taken place outside of a drug free school zone. It is hereby

1 recommended, at the discretion of the individual judge in cases
2 involving juveniles who violate the Act, that a minimum sentence of
3 one hundred (100) hours of community service be rendered in
4 addition to the basic sentence which would otherwise have been issued
5 if the violation had occurred outside a drug free school zone.”

6
7 **Section 6. Certification of Minors as Adults for the Purposes of**
8 **Criminal Proceedings.**

9 Section 5106 (a) of Chapter 5, Title 19, Guam Code Annotated is
10 hereby amended to read:

11
12 **“Section 5106. Certification for Criminal Proceedings.**

13 (a) If a child is sixteen (16) years of age or older at the time he
14 committed the offense for which he is charged, and if the conduct is a
15 misdemeanor or a felony of the third degree, and if the court after full
16 investigation deems it contrary to the best interest of such child or of
17 the public to retain jurisdiction, the court may, in its discretion,
18 certify such child for proper criminal proceedings to any court which
19 would have trial jurisdiction of such offense if committed by an adult.
20 A child who is sixteen (16) years of age or older at the time he
21 committed the offense for which he is charged shall automatically be
22 charged as an adult for any act which would constitute a felony of the
23 first or second degree or a violation of 17 GCA Chapter 48 Section
24 48002 (Drug Free School Zones Act) along with any acts which are
25 misdemeanors or felonies of the third degree which are part of the
26 same scheme of criminal activity as the felony. If a child is under
27 sixteen years of age at the time he committed the offense for which he
28 is charged, and if the conduct would constitute an offense under 9
29 GCA Chapter 16 (Homicides) or 17 GCA Chapter 48 Section
30 48002 (Violation of the Drug Free School Zones Act), and if the
31 court after full investigation deems it contrary to the best interest of
32 such child or of the public to retain jurisdiction, the court may, in its
33 discretion, certify such child for proper criminal proceedings to any
34 court which would have trial jurisdiction of such offense if committed
35 by an adult. If a child is certified as an adult, the same judge shall
36 not, in turn preside over the criminal proceedings against such child.”

37

1 **Section 7. Effective Date.**

2 The Drug Free School Zones Act shall become effective immediately
3 upon passage.



Superior Court of Guam

Judicial Center
120 West O'Brien Drive
Agana, Guam 96910
Telephone: (671) 475-3450/3410
Fax: (671) 477-3184

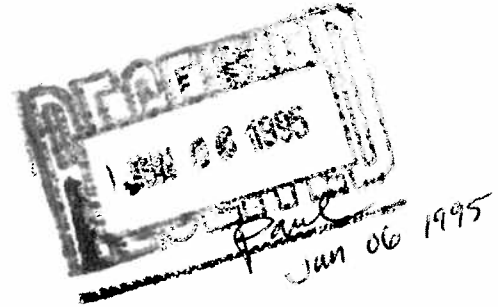


MCJ
TCJ

Hon. Alberto C. Lamorena III
Presiding Judge

June 1, 1995

Honorable Mark C. Charfauros
Chairman
Committee on the Judiciary and
Criminal Justice
155 Hesler Place
Agana, Guam 96910



Dear Senator Charfauros:

I would like to strongly endorse the passage of Bill No. 193 which would establish drug-free school zones throughout Guam's schools and provide for additional penalties for convicted drug offenders operating within these zones.

As mentioned in the 1995 State of the Judiciary address earlier this month, our drug problem on Guam has reached near epidemic proportions, particularly with ice and crystal meth. We must act now to prevent the further spread of this ugly disease.

Our island's elders ... our families ... our children are all falling prey to this plague, either as users or sellers of this illicit drug or as victims of those who are involved. And as a community, we must begin to tackle this problem head on ... we must protect especially those who cannot protect themselves from this disease.

Bill No. 193, sponsored by Senator Hope Cristobal, is indeed an excellent start. It would create a drug-free zone within five hundred (500) feet of any school, bus stop, playground or recreational area and it would add additional penalties to those found guilty of possessing or selling any drugs within the designated zones.

The memory still lingers on of that tragic morning one year ago when nine school children, waiting for their bus to school, were run down by a driver who was high on ice. I strongly believe that this proposed measure will serve as a deterrent to this type of behavior and I trust we can help prevent it from ever occurring again.



Hon. Alberto C. Lamorena III
Presiding Judge

At this time, I would like to raise several issues that may warrant further consideration by the Guam Legislature in this proposed bill. For example, consideration perhaps may be given to imposing mandatory fines and mandatory community service for convicted offenders of the drug free zone measure, similar to the proposal I floated during the State of the Judiciary address regarding stiffer penalties for drug offenders. I have written the bill's author regarding these suggestions for enhancements to the proposed measure which I trust will be received favorably.

The measure, as written, may also contain some technical provisions that I would like to ask my staff attorney to work with you and your legal counsel in correcting. However, as a whole, Bill 193 is a good beginning in protecting our children against this drug menace we now face. I urge the 23rd Guam Legislature to pass the bill into law.

Thank you in advance for your kind consideration. Si Yu'os Ma'ase.

Sincerely,



ALBERTO C. LAMORENA III
Presiding Judge

Notice of Public Hearing

Senator Mark C. Charfauros

Chairman

Committee on Judiciary, Criminal Justice and
Environmental Affairs

Twenty-Third Guam Legislature

Public Hearing

Bill No. 85: AN ACT TO CLARIFY THE QUALIFICATIONS FOR INCUMBENT GOVERNMENT ATTORNEYS TO TAKE THE BAR EXAMINATION.

Bill No. 91: AN ACT TO PROVIDE FOR THE DISQUALIFICATION OF OR ASSIGNMENT OF A DIFFERENT JUDGE OR REFEREE IN CASES WHERE PREJUDICE EXISTS OR IS CLAIMED, BY ADDING NEW SECTIONS 175.1, 175.2 & 175.3 TO CHAPTER II OF THE CIVIL PROCEDURE CODE.

Bill No. 115 (as amended by the author): AN ACT TO AMEND SUBSECTION (a) OF SECTION 2107, TO REPEAL AND REENACT SUBSECTION (b) TO SECTION 2107, TO AMEND SECTIONS 2704 AND 2705 ALL OF TITLE 10, GCA, PERTAINING TO THE INCREASE OF CERTAIN PENALTIES FOR WELFARE AND FOOD STAMP FRAUD.

Bill No. 116: AN ACT TO ESTABLISH A WHITE COLLAR CRIMES UNIT WITHIN THE DEPARTMENT OF LAWS PROSECUTION DIVISION.

Bill No. 152: AN ACT TO REPEAL AND REENACT THE SOLID WASTE MANAGEMENT AND LITTER CONTROL ACT, 10 GCA, CHAPTER 51.

Bill No. 173: AN ACT TO REPEAL AND REENACT SECTION 3209 (c) OF TITLE 16 GCA, RELATIVE TO REGULATING SUN SCREENING DEVICES ON MOTOR VEHICLES.

Bill No. 193: AN ACT TO ADD A NEW CHAPTER 48, TITLE XVII GCA, RELATIVE TO ESTABLISHING AND DESIGNATING "DRUG-FREE SCHOOL ZONES" THROUGHOUT GUAM'S SCHOOL, THROUGH PROHIBITING THE POSSESSION OF OR USE OF DRUGS WITHIN SUCH SPECIFIED AREAS IMMEDIATELY SURROUNDING THE SCHOOLS, FURTHER INSURING THE SAFETY OF SCHOOL CHILDREN; THIS PROVISION SHALL HEREBY BE DESIGNATED AS THE "DRUG-FREE SCHOOL ZONE". AND TO ADD A NEW SECTION 33.11 TO CHAPTER 80, TITLE IX, GCA, RELATIVE TO PUNISHMENT IMPOSED FOR DRUG OFFENSES IN CHAPTER 48, TITLE XVII.

Bill No. 228 (as amended by the author): AN ACT TO ADD SUBSECTION (qq) TO SECTION 1102, TO REPEAL AND REENACT SUBSECTION (c) OF SECTION 3209, TO ADD A NEW SUBSECTION (E) TO SECTION 3601 AND TO ADD A NEW SUBSECTION (F) TO SECTION 3603, TO TITLE 16, GCA RELATIVE TO THE APPLICATION OF SUN-SCREENING DEVICES ON THE WINDSHIELDS AND WINDOWS OF MOTOR VEHICLES AND TO PROVIDE PENALTIES THEREOF.

Bill No. 248: AN ACT TO AMEND SECTION 1112.1, CHAPTER 1 OF TITLE 12, RELATIVE TO RENAMING THE AIRPORT SECURITY FORCE TO AIRPORT POLICE.

Bill No. 249: AN ACT TO AMEND TITLE 12 GCA, SECTION 10111.1, RELATIVE TO RENAMING THE PORT AUTHORITY SECURITY FORCE TO PORT AUTHORITY POLICE.

Bill No. 250: AN ACT TO ADD A NEW SUBDIVISION (I) TO RULE 12, RULES OF CIVIL PROCEDURE, OF TITLE 7 GCA, RELATIVE TO SPECIAL MOTIONS.

Bill No. 251: AN ACT TO ADD A NEW SECTION 725 TO TITLE 1 GCA, TO DECLARE THE LEGISLATIVE DIRECTIVE THAT LAWS BE INTERPRETED ACCORDING TO THE NEEDS OF GUAM.

Date: Monday, May 22, 1995

Time: 9:30 a.m.

Place: Public Hearing Room
Guam Legislature

155 Hesler St. Agana

The Public is invited to attend

**FISCAL NOTE
BUREAU OF BUDGET AND MANAGEMENT RESEARCH**

BRMS-

Bill No. 193

Amendatory Bill

YES NO

Date Received 4/19/95
Date Reviewed _____

Department/Agency Affected: Department of Education, Guam Police Department

Department/Agency Head: Roland Taimanglo (Interim), Jack Shimizu (Chief)

Total FY Appropriation to Date: \$132,871,969 \$24.5 Mil

Bill Title (preamble) : An act to add a new Chapter 48, Title XVII, GCA, relative to establishing and designating "Drug-Free School Zones" throughout Guam's Schools;
To add a new Section 33.11 to Chapter 80, Title IX, GCA, relative to punishment imposed for Drug Offenses in Chapter 48, Title XVII.

Change in Law: N/A

Bill's Impact on Present Program Funding:
___ Increase X Decrease ___ Reallocation ___ No Change

Bill is for: ___ Operations ___ Capital Improvement X Other (_____)

FINANCIAL/PROGRAM IMPACT

PROGRAM CATEGORY	<u>ESTIMATED SINGLE-YEAR FUND REQUIREMENTS (Per Bill)</u>		TOTAL
	GENERAL FUND	OTHER	

<u>Education/Public Safety</u>	<u>See Comments</u>	_____	_____
--------------------------------	---------------------	-------	-------

ESTIMATED MULTI-YEAR FUND REQUIREMENTS (Per Bill)

<u>FUND</u>	<u>1st</u>	<u>2nd</u>	<u>3rd</u>	<u>4th</u>	<u>5th</u>	<u>TOTAL</u>
GENERAL FUND	<u>See Comments</u>	_____	_____	_____	_____	_____
OTHER	_____	_____	_____	_____	_____	_____
TOTAL	_____	_____	_____	_____	_____	_____

FUNDS ADEQUATE TO COVER INTENT OF THE BILL? YES/NO-IF NO, ADD'L AMOUNT REQUIRED \$ See Comments
AGENCY/PERSON/DATE CONTACTED: _____

ESTIMATED POTENTIAL MULTI-YEAR REVENUES

<u>FUND</u>	<u>1st</u>	<u>2nd</u>	<u>3rd</u>	<u>4th</u>	<u>5th</u>	<u>TOTAL</u>
GENERAL FUND	<u>See Comments</u>	_____	_____	_____	_____	_____
OTHER	_____	_____	_____	_____	_____	_____
TOTAL	_____	_____	_____	_____	_____	_____

ANALYST Dina Chock

DATE 4/27/95

DIRECTOR

Joseph E. Rivera
Acting

DATE MAY 02

FOOTNOTES: See Attachment.

Footnotes:

The Bill proposes to designate and establish "Drug-Free School Zones" throughout Guam's Schools. This will entail a fiscal impact for the construction and erection of such a sign. Note that the Bill is not specific as to what funding source will absorb this cost. It is also not specific as to the size and type of material(s) to be used for the construction of the signs. Therefore, the exact fiscal impact is undetermined at this time.

The Bill also proposes to add a new section 33.11 to Chapter 80 of Title 9 imposing a stricter penalty of imprisonment for a term of not less than five (5) years nor more than twenty-five (25) years for drug offenses committed in the area designated as a "Drug Free School Zone." It should be noted that current law imposes, in addition to set prison terms, various fines depending on the type of drug offense(s) committed to the drug offender. However, this Bill does not mention that a particular fine or increase in the current fines will be imposed for committing a drug offense within the Drug Free School Zone.

Introduced

TWENTY-THIRD GUAM LEGISLATURE
1995 (FIRST) REGULAR SESSION

APR 05 1995

BILL NO. 193(LS)

Introduced by:

H.A. CRISTOBAL *H. Cristobal*
Woupat Borja *W. Borja*
Lou Leon Guerrero *L. Leon* H.S.
2. C. *ada*

AN ACT TO ADD A NEW CHAPTER 48, TITLE XVII GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING AND DESIGNATING "DRUG-FREE SCHOOL ZONES" THROUGHOUT GUAM'S SCHOOLS, THROUGH PROHIBITING THE POSSESSION OF OR USE OF DRUGS WITHIN SUCH SPECIFIED AREAS IMMEDIATELY SURROUNDING THE SCHOOLS, FURTHER INSURING THE SAFETY OF SCHOOL CHILDREN; THIS PROVISION SHALL HEREBY BY DESIGNATED AS THE "DRUG-FREE SCHOOL ZONE." AND TO ADD A NEW SECTION 33.11 TO CHAPTER 80, TITLE IX, GCA, RELATIVE TO PUNISHMENT IMPOSED FOR DRUG OFFENSES IN CHAPTER 48, TITLE XVII.

BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:

Section 1. Legislative Statement.

The abuse of drugs by our youths continues to be a major problem on Guam. Drug abuse and related criminal activity directly threaten the health and safety of Guam's students. Students who abuse drugs risk serious damage to their health or even death. Students who attend schools where drugs are used or sold are often exposed to drug related violence. The abuse of drugs by our youth significantly detracts from educational achievements and is a major contributing factor in dropping out from school resulting in more and more of our young people not being prepared for jobs which require increasing complex skills. Drug abuse not only threatens the future of individual children, it undermines and threatens the strength of our society as a whole.

The Legislature further notes that the Department of Education's "Just Say

15 No" program, the DARE program and other anti-drug education programs are in need of
16 support in ensuring the safety of Guam's students and in fighting drugs, gang activity and
17 drug- related crime in and around schools.

18 The Legislature finds that as part of the six National Educational Goals
19 adopted in 1989, the sixth goal is, "By the year 2000, every school in America will be free
20 of drugs and violence and will offer a disciplined environment conducive to learning." A
21 disciplined environment is greatly enhanced with the designation of drug-free school
22 zones, the key being to create an atmosphere in which students and teachers are
23 engaged in learning and where drug related criminal activity is dealt with quickly, firmly
24 and fairly.

25 Further, it is found that law enforcement officials and the courts need
26 guidance on the penalties associated with drug-related criminal activity in the schools.
27 One effective means is the establishment of Drug-Free Schools Zones with increased
28 penalties for drug-related criminal activities on or near school property.

29 **Section 2. Legislative Intent.**

30 The Guam Legislature finds that enacting legislation to establish drug-free
31 school zones in or near school grounds, public or private, or bus stops, and other such
32 areas in which severe criminal penalties are imposed on individuals determined to be in
33 possession or use of drugs as stated in Chapters 67 and 80, of Title 9, GCA within the
34 identified school, bus stop, and other such zones is necessary in aiding in the deterrence
35 and prevention of drug abuse, violence, gang activity and other drug related criminal
36 activities in our island's schools. The Legislature further believes that more stringent
37 penalties should be established to prevent any individual from possessing or utilizing

38 drugs or alcohol within the designated drug-free school, bus stop, or other such zones.
39 Therefore this provision would provide for stringent criminal penalties for individuals
40 determined to be unlawfully possessing, using, transferring or selling drugs within
41 designated drug-free school zones; and would require the coordination between the Guam
42 Police Department, Department of Education, and other schools in the enforceability and
43 compliance of the provisions of this Act.

44 **Section 3. Drug-Free School Zones.**

45 A new Chapter 48, of Title 17, Guam Code Annotated is hereby enacted to read
46 as follows:

47 **Chapter 48**

48 § 48000 **Drug-Free School Zones**

49 § 48101 **Definitions**

50 § 48102 **Establishment of Drug Free School Zones**

51 § 48103 **Restrictive Penalty Provisions**

52 § 48104 **Coordination of Government Entities**

53

54 § 48101 **Definitions.** The following terms shall have the following meanings
55 within this chapter unless, within the context, the definition is manifestly inapplicable.

56 a) Drug-Free School Zone - - - Any public or private school building, bus stop
57 or bus, public or private school campus, grounds, recreational area, athletic field or other
58 property owned, used or operated by the Guam Territorial Board of Education, Guam
59 Community College Board of Trustees, or the University of Guam Board of Regents, or
60 Directors for the administration of any public or private educational institution.

61 b) Students - - - A person enrolled in a public or private school, college or
62 university, or a person who has been suspended or expelled within the last five years
63 from a public or private school, college or university, whether the person is an adult or a
64 minor.

65 c) Drugs - - - As defined in Chapters 67 and 80, Title 9, GCA.

66

67 **§ 48102 Establishment of Drug-Free School Zones.**

68 There is hereby established a "Drug-Free School Zone" within five hundred (500)
69 feet of any area designated as any public or private school building, bus stop or bus,
70 public or private school campus, grounds, recreational area, athletic field or other property
71 owned, used or operated by the Guam Territorial Board of Education, Guam Community
72 College Board of Trustees, or the University of Guam Board of Regents, or Directors for
73 the administration of any public or private educational institution.

74

75 **§ 48103 Restrictive Penalty Provisions**

76 It shall be a felony to possess, carry, sell or transfer, whether openly or concealed
77 any drugs on designated Drug Free School Zones. However, this section does not apply
78 to prescription drugs.

79 It shall be a felony for any person to cause, encourage or aid a minor to possess,
80 carry, sell or transfer, whether openly or concealed, any drugs on designated Drug Free
81 School Zones. However, this section does not apply to prescription drugs.

82

83

84 **§ 48104 Coordination of Government Entities.**

85 It shall be the responsibility of respected schools, public or private, to coordinate
86 the establishment and designation of the "Drug-Free School Zone." Coordination and
87 designation of the "Drug -Free School Zone." as provided in section 48102 of this Act.
88 Following the designation of the drug free school zone area, respective schools shall
89 notify the Guam Police Dept of such designated areas. The Guam Police Dept is hereby
90 instructed to work collectively with the island schools to ensure the effective compliance
91 and enforcement of the provisions set forth in this Act respective schools shall be
92 responsible for the construction and erection of "Drug Free School Zone" signs and
93 symbols within their designated drug free school zone areas.

94

95 A new section 33.11 of Chapter 80 of Title 9, Guam Code Annotated is
96 hereby enacted to read as follows:

97 **§ 80.33.11** In addition to the punishment imposed for drug offenses as
98 stated in Chapters 67 and 80, Title 9, GCA, a stricter penalty of imprisonment for a term
99 of not less than five (5) years nor more than twenty-five (25) years shall be imposed to
100 drug offenses committed in the area designated as a "Drug-Free School Zone."