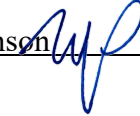


I MINA'TRENTAI SIETTE NA LIHESLATURAN GUÅHAN
2024 (SECOND) Regular Session

Bill No. 333-37 (LS)

Introduced by:

William A. Parkinson



AN ACT TO AMEND § 16.30 (a)(3), AND ADD NEW § 16.30 (a)(4); TO AMEND § 16.40 (a)(3) AND ADD NEW § 16.40 (a)(4); TO AMEND § 16.50 (a)(2) AND (3), AND ADD NEW § 16.50 (a)(4) AND (b) ALL OF CHAPTER 16, TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO CRIMINAL HOMICIDE.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan* finds that the illegal use and distribution of Schedule II controlled substances, including methamphetamine and fentanyl, have reached crisis levels on the island, posing severe threats to public health and safety. According to recent reports, Guam has experienced an alarming increase in drug-related deaths, with seven fatalities attributed to fentanyl over four years and 24 overdoses related to methamphetamine within a single year. Additionally, data from the Office of the Chief Medical Examiner reveals that one in seventeen deceased individuals last year tested positive for methamphetamine.

The potency and lethality of these substances, particularly when distributed unlawfully, necessitate stringent legal measures to curb their spread and mitigate the resultant loss of life. It is imperative to address the severe consequences of providing these drugs, especially to vulnerable populations such as minors.

The intent of this legislation is to amend Chapter 16, Title 9, of the Guam Code Annotated to strengthen the legal framework surrounding criminal homicide. Specifically, this bill aims to classify the death of a minor under the age of eighteen (18) resulting from the illegal use of a Schedule I or II controlled substance, knowingly or willingly provided by an unauthorized person, as aggravated murder. This ensures that those responsible for such egregious acts face the most severe legal consequences. It also expands the definition of murder to include the death of any person over the age of eighteen (18) caused by the illegal use of a Schedule I or II controlled substance, provided unlawfully by another person. This aims to hold accountable those who

1 contribute to fatal overdoses among adults. Finally, it define the death of an individual over the
2 age of eighteen (18) resulting from the proximate cause of an illegal transfer or sale of a Schedule
3 I or II controlled substance as manslaughter. This provision addresses cases where the connection
4 between the unlawful act and the resultant death, while indirect, is still significant.

5 By implementing these changes, *I Liheslatura* intends to provide a robust legal deterrent
6 against the distribution of these dangerous drugs and deliver justice for the victims and their
7 families and reduce the prevalence of drug-induced fatalities and protect the community from the
8 devastating effects of methamphetamine and fentanyl abuse.

9 **Section 2.** § 16.30(a)(3) of Chapter 16, Title 9, Guam Code Annotated is hereby
10 *amended* to read:

11 **“§ 16.30. Aggravated Murder Defined.**

12 (a) Criminal homicide constitutes aggravated murder when:

13 (1) it is committed intentionally with premeditation; or

14 (2) it is committed during the commission or attempt to commit any
15 felony defined in Chapters 22, 25, 31, 34, 37, 40 or 58 of this Title; or

16 (3) death is directly caused by the illegal use of a Schedule I or Schedule
17 II Controlled Substance, as defined by Chapter 67 of this Title, to a minor child
18 under the age of eighteen (18) years old ~~(Any person who knowingly or willingly~~
19 ~~transfers or sells any Schedule I Controlled Substance, as defined by Chapter 67 of~~
20 ~~this Title, to a minor child under the age of eighteen (18) years old in violation of~~
21 ~~the provisions of Chapter 67 of this Title, and such controlled substances directly~~
22 ~~causes the death of such minor child, is guilty of aggravated murder. This Section~~
23 ~~shall not apply to health care professionals and pharmacists in the legitimate~~
24 ~~practice of the healing arts.); or”~~

25 **Section 3.** A New § 16.30(a)(4) of Chapter 16, Title 9, Guam Code Annotated is
26 hereby *added* to read:

27 **§ 16.30. Aggravated Murder Defined.**

28 “(a) Criminal homicide constitutes aggravated murder when:

29 (4) Death of a minor child under the age of eighteen (18) is directly caused
30 by a knowing or willing transfer or sale of any Schedule I or II Controlled Substance
31 as defined by, and in violation of, Chapter 67 of this Title by a person who is not
32 licensed to prescribe or dispense the substance; or

1 (5) it is committed upon the orders of another person. Such person
2 giving the order is also guilty of aggravated murder.”

3 **Section 4.** § 16.40 (a)(3) of Chapter 16, Title 9, Guam Code Annotated is hereby
4 *amended* to read:

5 **“§ 16.40. Murder Defined**

6 (a) Criminal homicide constitutes murder when:

7 (1) it is committed intentionally or knowingly; or

8 (2) it is committed recklessly under circumstances manifesting extreme
9 indifference to the value of human life; or

10 (3) death is directly caused by the illegal use of a Schedule I or
11 Schedule II Controlled Substance, defined by Chapter 67 of this Title, to any
12 person. ~~Any person who knowingly or willingly transfers or sells any Schedule I~~
13 ~~Controlled Substance to a person over the age of eighteen (18) years old in violation~~
14 ~~of the provisions of Chapter 67 of this Title, and such controlled substance directly~~
15 ~~causes the death of such person, is guilty of murder. This Section shall not apply to~~
16 ~~health care professionals and pharmacists in the legitimate practice of the healing~~
17 ~~arts; or”~~

18 **Section 5.** A New § 16.40 (a)(4) of Chapter 16, Title 9, Guam Code Annotated is
19 hereby *added* to read:

20 **§ 16.40. Murder Defined.**

21 “(a) Criminal homicide constitutes murder when:

22 (4) Death of a person who is eighteen (18) Years or older is the result of
23 a knowing or willing transfer or sale of any Schedule I or Schedule II Controlled
24 Substance as defined by, and in violation of, Chapter 67 of this Title.”

25 **Section 6.** § 16.50(a)(2) and (3) of Chapter 16, Title 9, Guam Code Annotated is
26 hereby *amended* to read:

27 **“§ 16.50. Manslaughter Defined and Classified.**

28 (a) Criminal homicide constitutes manslaughter when:

29 (1) it is committed recklessly; or”

30 (2) a homicide which would otherwise be murder is committed under
31 the influence of extreme mental or emotional disturbance for which there is
32 reasonable explanation or excuse (The reasonableness of such explanation or
33 excuse ~~shall be determined from the viewpoint of a reasonable person in the~~

1 ~~defendant's situation under the circumstances as he believes them to be. The~~
2 ~~defendant must prove the reasonableness of such explanation or excuse by a~~
3 ~~preponderance of the evidence.); or~~

4 (3) death is indirectly or proximately caused, such as an accident, by
5 the illegal use of a Schedule I or Schedule II Controlled Substance, as defined by
6 Chapter 67 of this Title, to a person under the influence of such controlled
7 substance; ~~or. Any person who knowingly or willingly transfers or sells any~~
8 ~~Schedule I Controlled Substance to a person over the age of eighteen (18) years old~~
9 ~~in violation of the provisions of Chapter 67 of this Title, and such controlled~~
10 ~~substance indirectly or proximately causes the death of such person, is guilty of~~
11 ~~manslaughter. This Section shall not apply to health care professionals and~~
12 ~~pharmacists in the legitimate practice of the healing arts.~~

13 **Section 7.** A New § 16.50(a)(4) and (b) of Chapter 16, Title 9, Guam Code Annotated
14 is hereby *added* to read:

15 **§ 16.50. Manslaughter Defined and Classified.**

16 “(a) Criminal homicide constitutes manslaughter when:

17 (4) death of a person who is eighteen (18) years or older results
18 from a knowing or willing transfer or sale of a Schedule I or Schedule II
19 controlled substance, where such controlled substance proximately causes
20 the death of such person.

21 (b) The reasonableness of such explanation of excuse shall be determined from
22 the viewpoint of a reasonable person in the defendant's situation under the
23 circumstances as he believes them to be. The defendant must prove the reasonableness
24 of such explanation or excuse by a preponderance of the evidence.

25 (c) Manslaughter is a felony of the first degree.”

26 **Section 8. Effective Date:** This Act shall be effective upon enactment.

27 **Section 9. Severability.** If any of the provisions of this Act or the application thereof
28 to any person or circumstance is held invalid, such invalidity shall not affect any other provision
29 or application of this Act which can be given effect without the invalid provision or application,
30 and to this end the provisions of this Act are severable.