
AN ACT

An Act relating to criminal consequences of conduct that involves certain trafficking of persons and involuntary servitude and for other purposes.

Be it enacted by the Chuuk State Legislature:

1 Section 1. Purpose. The purpose of this Act is to penalize the trafficking of
2 persons and involuntary servitude.

3 Section 2. Definitions. In this Act:

4 (1) "Blackmail" is defined by any action which includes but is not limited to a
5 threat to expose any secret tending to subject any person to hatred, contempt, or ridicule;
6 or any payment extorted by intimidation, as by threats of injurious revelations or
7 accusations;

8 (2) "Commercial sexual activity" means any sex act on account of which
9 anything of value is given, promised to, or received by any person.

10 (3) "Financial harm" includes credit extortion or employment contracts that
11 violate that is grossly disadvantages against the person being trafficked or debt bondage.

12 (4) "Forced labor or services" means labor or services that are performed or
13 provided by another person and are obtained or maintained through:

14 (A) causing or threatening to cause serious harm to any person;

15 (B) physically restraining or threatening to physically restrain another person;

16 (C) abusing or threatening to abuse the law or legal process;

17 (D) knowingly destroying, concealing, removing, confiscating or possessing any
18 actual or purported passport or other immigration document, or any other actual
19 or purported government identification document, of another person;

20 (E) blackmail; or

21 (F) causing or threatening to cause financial harm to [using financial control over]
22 any person.

23 (5) "Labor" means work of economic or financial value.

1 (6) "Maintain" means, in relation to labor or services, to secure continued
2 performance thereof, regardless of any initial agreement on the part of the victim to
3 perform such type of service.

4 (7) "Obtain" means, in relation to labor or services, to secure performance
5 thereof.

6 (8) "Prostitution" means the act of performing, or offering or agreeing to
7 perform, a sexual act for hire, either as a prostitute or as a customer of a prostitute.
8 Prostitution includes engaging in or agreeing or offering to engage in sexual conduct with
9 another person, and engaging in any lewd act between persons, for money or other
10 consideration, either as the person paying or the person receiving the money or other
11 consideration.

12 (9) "Services" means an ongoing relationship between a person and the actor in
13 which the person performs activities under the supervision of or for the benefit of the
14 actor. Commercial sexual activity and sexually-explicit performances are forms of
15 "services" under this Section. Nothing in this provision should be construed to legitimize
16 or legalize prostitution.

17 (10) "Sexually-explicit performance" means a live, recorded (including over the
18 Internet) or public act or show intended to arouse or satisfy the sexual desires or appeal to
19 the prurient interests of patrons

20 (11) "Trafficking victim" means a person subjected to the practices set forth in
21 Section 3 (1) (involuntary servitude) or (2) (sexual servitude of a minor), or transported
22 in violation of Section (3) (trafficking of persons for forced labor or services).

23 Section 3. CRIMINAL PROVISIONS.

24 (1) INVOLUNTARY SERVITUDE. Whoever knowingly subjects, or attempts to
25 subject, another person to forced labor or services shall be punished by imprisonment as
26 follows, subject to Section (4), herein:

27 (A) by causing or threatening to cause physical harm to any person, not more than
28 10 years and fined of not less than \$5,000 but not more than \$10,000;

29 (B) by physically restraining or threatening to physically restrain another person,
30 not more than 8 years and fined of not less than \$4,000 but not more than \$8,000;

1 (C) by abusing or threatening to abuse the law or legal process, not more than 6
2 years and fined of not less than \$3,000 but not more than \$7,000;

3 (D) by knowingly destroying, concealing, removing, confiscating or possessing
4 any actual or purported passport or other immigration document, or any other
5 actual or purported government identification document, of another person, not
6 more than 5 years and fined of not less than \$3,000 but not more than \$7,000,

7 (E) by using blackmail, or using or threatening to cause financial harm to (using
8 financial control over) any person, not more than 3 years and not less than \$3,000
9 but not more than \$6,000.

10 (2) SEXUAL SERVITUDE OF A MINOR. Whoever knowingly recruits, entices,
11 harbors, transports, provides, or obtains by any means, or attempts to recruit, entice,
12 harbor, provide, or obtain by any means, another person under 18 years of age, knowing
13 that the minor will engage in commercial sexual activity, sexually-explicit performance,
14 or the production of pornography, or causes or attempts to cause a minor to engage in
15 commercial sexual activity, sexually-explicit performance, or the production of
16 pornography, shall be punished by imprisonment as follows, subject to the provisions of
17 Section (4), herein:

18 (A) in cases involving a minor between the ages of 13 and 18 years, not involving
19 overt force or threat, for not more than 15 years;

20 (B) in cases in which the minor had not attained the age of 18 years, not involving
21 overt force or threat, for not more than 20 years;

22 (C) in cases in which the violation involved overt force or threat, for not more
23 than 25 years.

24 (3) TRAFFICKING OF PERSONS FOR FORCED LABOR OR SERVICES.

25 Whoever knowingly;

26 (a) recruits, entices, harbors, transports, provides, or obtains by any means, or
27 attempts to recruit, entice, harbor, transport, provide, or obtain by any means, another
28 person, intending or knowing that the person will be subjected to forced labor or services;

29 or

30 (b) benefits, financially or by receiving anything of value, from participation in a
31 venture which has engaged in an act described in violation of Sections (1) to (3) of this

1 Section, shall, subject to the provisions of Section (4) infra, be imprisoned for not more
2 than 15 years.

3 (4) SENTENCING ENHANCEMENTS.

4 (A) Statutory Maximum - Rape, Extreme Violence, and Death. If the violation of
5 this Act involves kidnapping or an attempt to kidnap, sexual abuse or the attempt to
6 commit sexual abuse, or an attempt to kill, the defendant shall be imprisoned for any term
7 of years or life, or if death results, may be sentenced to any term of years or life.

8 (B) Sentencing Considerations

9 (1) Bodily Injury. If, pursuant to a violation of this Act, a victim suffered bodily
10 injury, the sentence may be enhanced as follows:

11 (1) Bodily injury, an additional two (2) years of imprisonment;

12 (2) Serious Bodily Injury, an additional (5) years of imprisonment;

13 (3) Permanent or Life-Threatening Bodily Injury, an additional 10 years of
14 imprisonment; or

15 (4) If death results, defendant shall be sentenced in accordance with
16 murder or manslaughter shall be the minimum of 20 years
17 - imprisonment in jail or custody of the Department of Public Safety.

18 (2) Time in Servitude. In determining sentences within statutory maximums, the
19 sentencing court should take into account the time in which the victim was held in
20 servitude, with increased penalties for cases in which the victim was held for
21 between 180 days and one year, and increased penalties for cases in which the
22 victim was held for more than one year.

23 (3) Number of Victims. In determining sentences within statutory maximums, the
24 sentencing court should take into account the number of victims, and may provide
25 for substantially-increased sentences in cases involving more than 10 victims.

26 (5) RESTITUTION.

27 Restitution is mandatory under this Act. In addition to any other amount of loss
28 identified, the court shall order restitution including the greater of 1) the gross income or
29 value to the defendant of the victim's labor or services or 2) the value of the victim's labor
30 as guaranteed under the minimum wage and overtime provisions of the Public Service
31 System Act, as amended, which shall be made applicable herein.

1 (6) TRAFFICKING VICTIM PROTECTION

2 1) Assessment of Victim Protection Needs

3 (a) The Attorney General, in consultation with the Department of Health Services
4 and FSM Department of Health and Social Affairs shall, no later than one year from the
5 effective date of this statute, issue a report outlining how existing victim/witness laws and
6 regulations respond to the needs of trafficking victims, and suggesting areas of
7 improvement and modification.

8 (b) The Department of Health Services, in consultation with the Attorney General,
9 shall, no later than one year from the effective date of this statute, issue a report outlining
10 how (non) existing social service programs respond or fail to respond to the needs of
11 trafficking victims, as defined in this Act, and the interplay of such (non) existing
12 programs with federally-funded victim service programs, and suggesting areas of
13 improvement and modification or enactment and promulgation.

14 2) Protections While in Custody

15 Victims of severe forms of trafficking, while in the custody of the Chuuk State
16 Government and to the extent practicable, shall—

17 (A) not be detained in facilities inappropriate to their status as crime victims;

18 (B) receive necessary medical care and other assistance; and

19 (C) be provided protection if a victim's safety is at risk or if there is danger of
20 additional harm by recapture of the victim by a trafficker, including—

21 (i) taking measures to protect trafficked persons and their family members from
22 intimidation and threats of reprisals and reprisals from traffickers and their
23 associates; and

24 (ii) ensuring that the names and identifying information of trafficked persons and
25 their family members are not disclosed to the public.

26 3) Access to Information

27 Victims of severe forms of trafficking shall have access to information about their
28 rights and translation services. To the extent practicable, victims of severe forms of
29 trafficking shall have access to information about federally funded or administered anti-
30 trafficking programs that provide services to victims of severe forms of trafficking.

31 (4) Authority to Permit Continued Presence in the FSM

1 (A) Trafficking victims

2 (i) In general. The Chuuk Attorney General's Office files an application
3 stating that an alien is a victim of a severe form of trafficking and may be a
4 potential witness to such trafficking, the Attorney General shall request the
5 Secretary of the Department of Justice, Division of Immigration and Labor of the
6 FSM National Government to permit the alien to remain in the FSM to facilitate
7 the investigation and prosecution of those responsible for such crime.

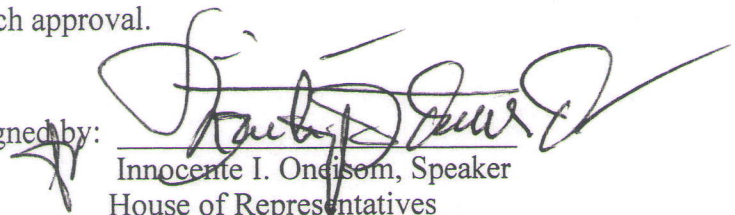
8 (ii) Safety. While investigating and prosecuting suspected traffickers, the
9 Department of Public Safety including the Attorney General's Office shall
10 endeavor to make reasonable efforts to protect the safety of trafficking victims,
11 including taking measures to protect trafficked persons and their family members
12 from intimidation, threats of reprisals, and reprisals from traffickers and their
13 associates.

14 (iii) Continuation of presence. The FSM Secretary of the Department of
15 Justice may permit an alien described in this Act who has filed a civil action to
16 remain in the FSM until such action is concluded. If the Secretary, in consultation
17 with the Chuuk State Attorney General, determines that the alien has failed to
18 exercise due diligence in pursuing such action, the Secretary may revoke the order
19 permitting the alien to remain in the Federated States of Micronesia.

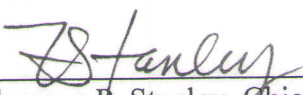
20 (B) Parole for relatives

21 Law enforcement officials may submit written requests to the Secretary of FSM
22 Department of Justice in accordance with relevant FSM laws, to permit the parole into
23 the FSM of certain relatives of an alien who are victims of trafficking.

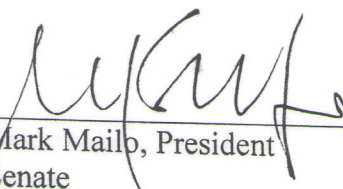
24 Section 4. Effective Date. This Act shall become law upon approval by the
25 Governor, or upon its becoming law without such approval.

Signed by: 
Innocente I. Ondisom, Speaker
House of Representatives
Chuuk State Legislature

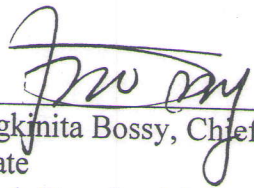
Attested:


Florence P. Stanley, Chief Clerk
House of Representatives
Chuuk State Legislature

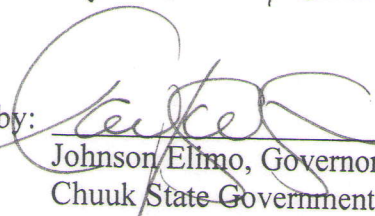
Date: 2/08/13

Signed by: 
Mark Mailo, President
Senate
Chuuk State Legislature

Attested:


Songkinita Bossy, Chief Clerk
Senate
Chuuk State Legislature

Date: Feb. 8, 2013

Approved by: 
Johnson/Elimo, Governor
Chuuk State Government

Date: 2-13-13

History : H.B.NO: 11-76;HD1
: H.S.C.R.NO: None
: S.S.C.R.NO: None