



GOVERNMENT OF KOSRAE

Office of the Governor

Postal Office Box 158

Kosrae, Federated States of Micronesia 96944

Telephone: 691-370-3002/3003..Facsimile: 691-370-3162

March 14, 2014

The Honorable Gibson T. Siba
Speaker
Tenth Kosrae State Legislature
Tofol, Kosrae FM 96944

Dear Mr. Speaker,

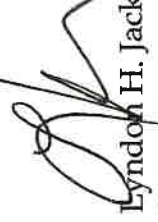
Kaksakin God ke moul mwowo a pal mwowo lasr.

Nga engan in akkalemeye la nga sainiya L.B. No. 10-20, L.D. 3, su inge a orala
State Law No. **10-105**.

"TO AMEND TITLE 16 OF THE KOSRAE STATE CODE BY ADDING A NEW PART III
TO ESTABLISH THE KOSRAE STATE FAMILY PROTECTION ACT; AND FOR OTHER
PURPOSES."

Certified copy ke masap se inge pa attached nu ke letter luk.

Kulo ma lulap.


Lyndon H. Jackson
Governor
State of Kosrae

/ cae



TENTH KOSRAE STATE LEGISLATURE

FIRST REGULAR SESSION, 2012

L. B. No. 10-20, L.J. 3

A BILL FOR AN ACT

To amend Title 16 of the Kosrae State Code by adding a new Part III to establish the Kosrae State Family Protection Act; and for other purposes.

BE IT ENACTED BY THE KOSRAE STATE LEGISLATURE

1 Section 1. Purpose. To provide for the protection and safety of those persons who, by
2 reason of their sex, age, marital status, physical or mental disability, or other condition are
3 subject to physical, sexual or mental abuse occurring within, or as a consequence of their
4 domestic interpersonal relationship with the abuser or abusers.

5 Section 2. Findings. The Kosrae State Legislature finds that:

6 (1) Domestic violence is a serious problem, that poses a serious threat to the
7 citizens and residents of Kosrae.
8 (2) The number of incidents and severity of domestic violence in Kosrae have
9 in recent years.

10 (3) Protection of household members from domestic violence is consistent with
11 Kosraean custom and tradition and in line with public interest.

12 (4) In order to protect the household members it is necessary to enact legislation
13 that implements Kosraean customary and traditional protections against domestic violence.

14 Section 3. Amendment. Title 16 of the Kosrae State Code is hereby amended by adding
15 a new Part III to read as follows:

16 Part III. Family Protection

17 Chapter 13. Family Protection Act

1 Section 16.1301. Short Title. This Act shall be known as and may be cited as the
2 “Family Protection Act of 2012”.

3 Section 16.1302. Definitions. As used in this Act, the following words and phrases have
4 the meaning described in this section:

5 (1) “applicant” means any person who, pursuant to this Act applies, or on
6 whose behalf an application is made, for an order;

7 (2) “child” means a person under the age of eighteen years.

8 (3) “court” means the Kosrae State Court;

9 (4) “de facto spouse” in relation to a person, means a person of the opposite sex
10 who is living with a person as the person’s husband or wife although not legally married to that
11 person;

12 (5) “dependant” in relation to a person includes:

13 (a) a person who has attained the age of eighteen years; and

14 (b) who normally resides or resides on a regular basis with the person;

15 (6) “domestic violence” means the occurrence of one or more of the following
16 acts by a family or household member, but does not include acts of self-defense or in defense of
17 others:

18 (a) Aggravated assault or attempted aggravated assault of another family
19 or household member;

20 (b) Placing a family or household member in fear of imminent and
21 actual serious bodily injury;

- 1 (c) Sexual abuse or sexual assault of a family or a household member;
- 2 (d) Permitting or procuring sexual contact with a family member or
- 3 household member.
- 4 (7) “ex parte application” means an application made without notice to the
- 5 respondent;
- 6 (8) “family or household member” means member of a person’s family
- 7 including spouse, child, parent, grandparent, sibling, uncle, aunt, brother-in-law or sister-in-law,
- 8 or uncle-in-law or nephew, niece or cousin; any other person who is treated by the person as a
- 9 family member, dependent or a member of a same household including by customary adoption in
- 10 a person working in the household residence.
- 11 (9) “household residence” means:
- 12 (a) in relation to both spouses, the dwelling house that is used by both
- 13 parties or either of them as only of principal family residence together with any land, buildings
- 14 or improvements appurtenant thereto and wholly or mainly used for the purposes of the
- 15 household.
- 16 (b) in relation to a man or a woman who are no longer spouses, the
- 17 dwelling house that was last used by either of them, before or after they ceased to be spouses, as
- 18 the only or principal family residence, together with any land, buildings, or improvements
- 19 appurtenant thereto and used wholly or mainly for the purposes of the household.
- 20 (10) “interim order” means an interim protection order or an interim occupation
- 21 order;

- 1 (11) “occupation order” means an order made under Section 16.1320 and
2 includes an interim order made under that section;
- 3 (12) “order” means a protection order or an occupation order not being an
4 interim order;
- 5 (13) “prescribed person” means the spouse of the respondent, a parent or a child
6 of dependant or that person;
- 7 (14) “spouse” includes a former spouse, de facto spouse and former de facto
8 spouse;
- 9 (15) “protection order” means an order made under Section 16.1304 includes an
10 interim order made under that section;
- 11 (16) “respondent” means a person against whom an order is granted pursuant to
12 this Act;
- 13 (17) “sexual contact” means any touching of the sexual or other intimate parts of
14 another done with the intent of gratifying the sexual desire of either party.
- 15 Section 16.1303. Offenses and Penalties of Domestic Violence.
- 16 (1) Categories of Offenses. In addition to any charges that may arise from the
17 conduct of an accused person, any person who intentionally, knowingly, or recklessly commits
18 an act of domestic violence, as defined in Section 16.1302(6) of this Act, is shall be guilty as
19 follows:
- 20 (a) For a subsection (6)(a) aggravated assault offense, he or she shall be
21 guilty of a category one felony;

- 1 b. For a subsection (6)(a) attempted aggravated assault offense, he or
2 she shall be guilty of a category two felony;
- 3 c. For a subsection (6)(b) offense, he or she shall be guilty of a
4 category one misdemeanor;
- 5 d. For a subsection (6)(c) offense, he or she shall be guilty of a
6 category one felony;
- 7 e. For a subsection (6)(d) offense, he or she shall be guilty of a
8 category two felony.

9 Section 16.1304. Reduction of a felony offense to a misdemeanor offense. Upon a
10 written, pre-trial motion, a defendant may move that a felony charge filed pursuant to Section
11 16.1303 be reduced to a misdemeanor charge. The prosecution may respond to the motion
12 within five days of its receipt of the motion. The Court shall rule on the motion before the
13 commencement of trial.

14 (1) In determining whether any felony charge filed pursuant to Section 16.1303
15 should be reduced to a misdemeanor, the court shall consider the following factors, among
16 others:

- 17 (a) the extent or seriousness of the victim's injuries;
- 18 (b) the defendant's history of violence against the same victim whether
19 charged or uncharged;
- 20 (c) the use of any weapon or physical object by the defendant;
- 21 (d) the defendant's prior criminal history;

1 (e) the victim's attitude and conduct regarding the incident;
2 (f) the involvement of alcohol or other substance, and the defendant's
3 history of substance abuse as reflected in the defendant's criminal history and other sources; and
4 (g) the defendant's history of and amenability to counseling.
5 (2) If the court, after hearing, finds substantial evidence that a victim suffered
6 serious bodily injury as a result of an aggravated assault or battery; no felony charged
7 filed under this Act shall be reduced to a misdemeanor unless the court finds that due to unusual
8 circumstances a reduction of the charge is manifestly in the interest of justice.
9 (3) The fact that an alleged criminal act involved domestic violence as defined
10 in this Act shall not preclude the prosecuting attorney from charging and prosecuting the
11 defendant for any other violations of law, provided, however, that the accused shall not be
12 imposed multiple punishments for the same criminal conduct;
13 Section 16.1305. Probation or suspended sentence. After taking into account the factors
14 listed in Section 16.1304(1) the court may grant probation or suspend the imposition of a
15 sentence.
16 (1) If probation is granted, or the imposition of a sentence is suspended, for any
17 person convicted under Section 16.1303 who previously had been convicted under that Section
18 for an offense that occurred within seven (7) years of the offense of the second conviction, it
19 shall be a condition of such probation or suspended sentence that he or she be punished by
20 imprisonment for not less than ten (10) days. However, the court, upon a showing of good
21 cause, may find that the minimum imprisonment as required by this subsection shall not be

1 imposed and may grant probation or the suspension of the imposition of a sentence.

2 Section 16.1306. Conditions of Release.

3 (1) Should a person, charged with a crime involving domestic violence or a
4 violation of a court order, be released, the court may impose the following conditions of release:

5 (a) an order enjoining the person from threatening to commit or
6 committing acts of domestic violence against the alleged victim or other family or household
7 member;

8 (b) an order prohibiting the person from harassing, annoying,
9 telephoning, contacting or otherwise communicating with the alleged victim, either directly or
10 indirectly. Notwithstanding the provisions of this subsection, that accused may communicate
11 with the alleged victim insofar as such communication is not harassing or annoying the alleged
12 victim and it conveys the sense of remorse and customary apology of the accused. Any
13 statement made in accordance with this subsection shall not be admissible at trial against the
14 accused;

15 (c) an order directing the person to vacate the household residence;

16 (d) an order directing the person to stay away from the alleged victim
17 and any other family or household member, the residence, school, place of employment or any
18 other specified place frequented by the alleged victim or any other family or household member;

19 (e) an order prohibiting the person from possession or consumption of
20 alcohol or controlled substances;

21 (f) an order granting the alleged victim possession and use of the

1 automobile and other essential personal effects;
2 (g) any other order required to protect the safety of the alleged victim
3 and to ensure the appearance of the person in Court.
4 (2) If conditions of release are imposed, the Court shall:
5 (a) issue a written order for conditional release; and
6 (b) immediately distribute a copy of the order to the Kosrae Police
7 Department and the Office of the Attorney General.
8 (3) The Court shall provide a copy of the conditions to the arrested or charged
9 person and his/her counsel upon his or her release. Failure to provide the person with a copy of
10 the conditions or release does not invalidate the conditions if the arrested or charged person has
11 notice of the conditions.
12 (4) If conditions of release are imposed without a hearing, the arrested or
13 charged person may request a prompt hearing before the Court to review the conditions. Upon
14 such a request, the Court shall hold a prompt hearing to review the conditions.
15 Section 16.1307. Notice to victims. When a person who is arrested for or charged with a
16 crime involving domestic violence or a violation of a court order is released from custody, the
17 Office of the Attorney General shall:
18 (1) Use all reasonable means to immediately notify the victim of the alleged
19 crime of the release; and
20 (2) Furnish the victim of the alleged crime, at no cost, a copy of any conditions
21 of release.

1 Section 16.1308. Powers and Duties of Police officers.

2 (1) If a police officer has reasonable cause to believe that a person has
3 committed the offense of domestic violence, the police officer may arrest that person.

4 (2) If a police officer receives complaints of domestic violence from two or
5 more opposing persons, the officer shall evaluate each complaint separately to determine who
6 was the primary aggressor. If the officer determines that one person was the primary aggressor,
7 the officer need not arrest the other person believed to have committed domestic violence but the
8 police officer shall document to the best of his or her ability the evidence concerning the actions
9 of each participant in the incident.

10 (3) In determining whether a person is the primary aggressor the officer shall
11 consider:

- 12 (a) prior complaints of domestic violence;
- 13 (b) the relative severity of the injuries inflicted on each person;
- 14 (c) the likelihood of future injury to each person;
- 15 (d) whether one of the persons acted in self-defense;
- 16 (e) the use or threatened use of a weapon; and
- 17 (f) the use or threatened use of physical force.

18 (4) A police officer shall not:

- 19 (a) threaten, suggest, or otherwise indicate the possible arrest of all
- 20 parties to discourage requests for intervention by police officers by any party; or,

21 (b) base the decision to arrest or not to arrest on:

- 1 (i) the specific consent or request of the victim; or,
2 (ii) the officer's perception of the willingness of a victim of or
3 witness to the domestic violence to testify or otherwise participate in a judicial proceeding.
- 4 (5) In addition to any other report required, a police officer who does not make
5 an arrest after investigating a complaint of domestic violence or who arrests two or more persons
6 for a crime involving domestic violence must submit a written report setting for the grounds for
7 not arresting or for arresting both parties.

8 Section 16.1309. Mandatory confinement. When a police officer makes an arrest for
9 domestic violence the arrestee shall be confined pending a hearing by the court, which shall be
10 held within 48 hours of his arrest. The arrestee may be released earlier with the consent of the
11 Office of the Attorney General.

12 Section 16.1310. Duties of Police Officers to Victim of Domestic Violence.

- 13 (1) Police officers shall respond to every request for assistance or protection,
14 from or on behalf of a victim of alleged domestic violence, whether or not an order has been
15 issued against the alleged abuser.
- 16 (2) Priority shall be accorded to calls involving alleged incidents of abuse or
17 violations of orders related to domestic violence.
- 18 (3) Kosrae State Police shall develop and implement a comprehensive
19 departmental domestic violence policy and protocol.
- 20 (4) If the police officer has reason to believe that a person is a victim of
21 domestic violence, the officer shall use all reasonable means to prevent further domestic violence

1 and to ensure the victim's safety including:

- 2 (a) taking the action necessary to provide for the safety of the victim and
3 any family or household member;
- 4 (b) exercising arrest powers pursuant to this Act;
- 5 (c) arranging transportation for the victim to the nearest hospital or
6 medical facility for treatment of injuries;
- 7 (d) arranging for transportation for the victim to a safe place or shelter;
- 8 (e) promptly filling out and filing a domestic violence report;
- 9 (f) accompanying the victim to the residence to remove essential
10 personal belongings;

11 (g) supervising the Court-ordered removal of an abuser from a residence
12 shared with a victim; and

13 (h) giving the victim immediate and adequate written notice of the rights
14 of victims and of the remedies and services available to victims of domestic violence.

15 Section 16.1311. Notice to victims. A victim of domestic violence shall be provided
16 with a written notice of the rights of victims and of the remedies and services available to victim.
17 The written notice must be provided in a language the victim can understand. The following
18 paragraph shall be read, in English or Kosraean, to all victims of domestic violence by the
19 responding officer:

20 "You have the right to request a police officer's assistance for your safety. You
21 may also request that the police officer assist you in obtaining your essential personal effects,

1 and arranging transportation to a safe place, including but not limited to a designated meeting
2 place for a shelter, a family member's or a friend's residence, or a similar place of safety. If you
3 are in need of medical treatment, you have the right to request that the officer assist you in
4 obtaining medical treatment.”

5 Section 16.1312. Limitations of Liability. A police officer shall not be liable for
6 personal injury or property damage which occurs in the course of any reasonable effort to protect
7 a victim of domestic violence, including, but not limited to, action taken during the course of an
8 arrest, an attempt to separate two parties or to enforce a Court order, or action taken during the
9 transportation of the victim to a shelter, hospital or other safe place.

10 Section 16.1314. Evidentiary Privileges Inapplicable in Criminal Proceedings Involving
11 Domestic Violence. Notwithstanding any other provision of law, the following evidentiary
12 privileges do not apply in any criminal proceeding in which a spouse or other family or
13 household member is the victim of an alleged crime involving domestic violence:

- 14 (1) The privilege not to testify against one's spouse;
- 15 (2) The privilege for confidential marital communication; and
- 16 (3) The physician-patient privilege

17 Nothing in this section shall be construed to allow any person to compel the alleged
18 victim to testify if he or she knowingly and voluntarily refuses to testify.

19 Section 16.1315. Persons entitled to apply for an order under this Act

20 (1) An application for an order under this Act may be made by:

21 (a) the spouse of the respondent being the spouse in respect of who the

1 alleged conduct has been, or is likely to be engaged in by the respondent;
2 (b) where the alleged conduct involves a child or dependant;
3 (i) a person with whom the child or dependant normally resides
4 or resides on a regular basis; or
5 (ii) a parent or guardian of the child or dependant; or
6 (iii) where the dependant is not mentally disabled, the dependant;
7 or
8 (iv) The Director of the Department of Health Services; or
9 (v) A police officer; or
10 (vi) A person holding the office or performing the duties of a
11 probation officer or medical social worker.
12 Section 16.1316. Application for protection order.
13 (1) Application may be made to the court in accordance with this Act for a
14 protection order prohibiting the respondent.
15 (a) from entering or remaining in the household residence of any
16 prescribed person;
17 (b) from entering or remaining in any area specified in the order, being
18 an area in which the household residence of a prescribed person is located;
19 (c) from entering the place of work or education of any prescribed
20 person;
21 (d) from entering or remaining in any place where a prescribed person

1 happen to be;

2 (e) from molesting a prescribed person by:

3 (i) watching or besetting the prescribed person's household

4 residence, place of work or education;

5 (ii) following or waylaying the prescribed person in any place;

6 (iii) making persistent telephone calls to a prescribed person; or

7 (iv) using abusive language to or behaving towards a prescribed

8 person in any other manner which is of such nature and degree as to cause annoyance to , or

9 result in ill-treatment of the prescribed person.

10 (2) On hearing an application under subsection (1) the court may make a

11 protection order if it is satisfied that:

12 (a) the respondent has used or threatened to use, violence against, or

13 caused physical or mental injury to a prescribed person and is likely to do so again; or

14 (b) having regard to all the circumstances, the order is necessary for the

15 protection of a prescribed person, and the court may, if it thinks fit, attach a power of arrest to the

16 order.

17 (3) A protection order may be made on an ex parte application if the court is

18 satisfied that the delay would be caused by proceeding on notice would or might entail:

19 (a) risk to the personal safety of a prescribed person; or

20 (b) serious injury or undue hardship, and any protection order made on

21 an ex parte application shall be an interim order.

1 (4) Where a protection order is granted on an ex parte application, the
2 respondent may apply immediately for it to be discharged.

3 Section 16.1317. Violation of a Court Order. Where a protection order or an interim
4 protection order is issued pursuant to this Act, and it is served personally on the respondent, any
5 knowing violation of any court order issued pursuant to the Act shall be a misdemeanor
6 punishable by a fine of not more than One Thousand Dollars (\$1,000), or by imprisonment for
7 not more than (1) year, or by both such fine and imprisonment.

8 (1) In the event of a conviction pursuant to this Section for a violation of a court
9 order that resulted in bodily injury, the defendant shall be imprisoned for at least forty-eight (48)
10 hours.

11 (2) In the event of a conviction pursuant to this Section for a violation of a court
12 order occurring within one year of a conviction of a previous pursuant to this Section the
13 defendant shall be imprisoned for no less than thirty (30) days.

14 (3) Subject to the provisions of this section, where a protection order is in force,
15 a police officer may arrest without warrant a person whom he has reasonable cause to suspect of
16 having committed a breach of the order.

17 (4) No person shall be arrested under this section unless the police officer
18 believes that the arrest of that person is reasonably necessary for the protection of the applicant.

19 (5) For the purposes of subsection (3), the police officer shall take into account:

20 (a) the seriousness of the act which constituted the alleged breach;

21 (b) the time that has elapsed since the alleged breach was committed;

1 (c) the restraining effect of other persons or circumstances on the
2 respondent;
3 (d) the need for a cooling-off period.

4 Section 16.1318. Duration and discharge of protection order.

5 (1) A protection order shall cease to have effect if a party to the proceedings in
6 which the order was made applies to the court for it to be discharged.

7 (2) A copy of an application under subsection (1) shall be served personally on
8 each person who was a party to the proceedings in which the original order was made.

9 (3) In determining whether to discharge a protection order the court shall have
10 regard to the matters referred to in Section 16.1317(5).

11 Section 16.1319. Maintenance of Systematic Records.

12 (1) The Department of Public Safety shall maintain a complete and systematic
13 record of all protection orders with respect to domestic violence incidents, including orders that
14 have not yet been served, restraining orders, and proofs of service in effect. This shall be used to
15 inform police officers responding to domestic violence calls of the existence, terms, and effective
16 dates of protection orders in effect.

17 (2) The terms and conditions of a protection order remain enforceable,
18 notwithstanding the acts of the parties, and may be changed only by order of the court.

19 (3) Upon request, law enforcement agencies shall serve the court's protection
20 orders upon the party to be restrained at the scene of a domestic violence incident or at any time
21 the party is in custody.

1 Section 16.1320. Application for a grant of occupation order.

2 (1) Application may be made to the Court for an occupation order granting the
3 prescribed person named in the order the right to live in the household residence.

4 (2) Subject to subsection 3 of this section and Section 16.1324, the Court may,
5 on an application under subsection (1), make an occupation order granting to the applicant, for
6 such period or periods and on such terms and subject to such conditions as the Court thinks fit,
7 the right to occupy the household residence or any other premises forming part of the household
8 residence.

9 (3) The Court may make an order under subsection (2) only if the Court is
10 satisfied that such an order

11 (a) is necessary for the protection of a prescribed person; or

12 (b) is in the best interests of a child.

13 Section 16.1321. Ex parte application for occupation order.

14 (1) An occupation order may be made on an ex parte application if the Court is
15 satisfied that:

16 (a) the respondent has used violence against or caused physical or
17 mental injury to a prescribed person; and

18 (b) the delay that would be caused by proceeding on notice could or
19 might expose the prescribed person to physical injury.

20 (2) Any occupation order made on an ex parte application shall be an interim
21 order.

1 (3) Where the Court grants an occupation order on an ex parte application, the
2 Court shall at the same time make an interim protection order unless it considers that there are
3 special reasons why such an order should not be made.

4 (4) An occupation order which is made on an ex parte application while the
5 prescribed person concerned and the respondent are living together in the same household
6 residence shall expire.

7 (a) on the discharge of the order by the Court;

8 (b) on the discharge of an interim protection order made pursuant to
9 subsection (3);

10 (c) in any other case, at the expiration of a period of seven days after the
11 date on which the occupation order was made.

12 (5) Where an occupation order is made on an ex parte application, the
13 respondent may apply immediately for variation or discharge of that order.

14 Section 16.1322. Effect of occupation order. Where an occupation order is made the
15 prescribed person to which it relates shall be entitled, to the exclusion of the respondent,
16 personally to occupy the household residence to which that order relates.

17 Section 16.1323. Variation or discharge of occupation order. The Court may if it thinks
18 fit on the application of either party, make an order:

19 (1) Extending or reducing any period specified by the Court pursuant to Section
20 16.1320(2); or

21 (2) Varying or discharging any terms and conditions imposed by Court pursuant

1 to that subsection.

2 Section 16.1324. Procedure relating to occupation orders.

3 (1) Before making any occupation order (other than an interim occupation
4 order) the Court shall direct that notice be given to any person having an interest in the property
5 which would be affected by the order.

6 (2) The person referred to in subsection (1) shall, upon being notified pursuant
7 to that subsection, be entitled to be heard in the matter of the application for the occupation order
8 as a party to that application.

9 Section 16.1325. Power of Court to make ancillary order re: furniture.

10 (1) On or after making an occupation order the Court may, subject to subsection
11 (2) make an order granting to the applicant the use, for such period and on such terms and
12 subject to such conditions as the Court thinks fit, of all or any of:

13 (a) the furniture;

14 (b) household appliances; and

15 (c) household effects, in the household residence or other premises to
16 which the occupation order relates.

17 (2) An order made under subsection (1) shall continue in force for a period of
18 three months and shall take effect from on the date on which the order is made, unless the Court
19 otherwise directs, but, in any event shall expire if the occupation order made in relation to the
20 household residence or other premises expires or is discharged.

21 Section 16.1326. Interim orders.

1 (1) Every interim order made under this Act on an ex parte application shall
2 specify a date (which shall be as soon as reasonably practicable thereafter) for a hearing on
3 whether an order should be made in substitution for the interim order.

4 (2) The copy of any such interim order which is served on the respondent shall
5 notify the respondent that unless the respondent attends on the specified date to show cause why
6 an order should not be made in substitution for the interim order, the Court may discharge the
7 interim order and make an order in substitution therefore.

8 (3) At the hearing referred to in subsection (1) the Court may:

9 (a) discharge the interim order; or

10 (b) discharge the interim order and make an order in substitution
11 therefore; or
12 (c) on good cause being shown, adjourn the hearing to such date and
13 place as the Court may specify.

14 (4) Where a hearing is adjourned under subsection (3)(c) the Court shall, at the
15 adjourned hearing, exercise either the power conferred by Subsection (3)(a) or (3)(b).

16 Section 16.1327. Conduct of proceedings.

17 (1) No person shall be present during the hearing of any proceedings under this
18 Act (other than criminal proceedings) except:

19 (a) officers of the Court;

20 (b) parties to the proceedings and their counsel;

21 (c) witnesses;

1 (d) any other person permitted by the Judge to be present.

2 (2) Any witness, who has not testified or will testify again shall leave the
3 courtroom, when any other witness if testifying, if asked to do so by the Judge or any party.

4 (3) Nothing in this section shall limit any other power of the Court to hear
5 proceedings in camera or to exclude any person from the Court.

6 Section 16.1328. Evidence. In any proceedings under this Act (other than criminal
7 proceedings) including proceedings by way of appeal, the Court may receive such evidence as it
8 thinks fit whether it is otherwise admissible in a Court of law or not.

9 Section 16.1329. Standard of proof. Every question of fact arising in any proceedings
10 under this Act (other than criminal proceedings) shall be decided on a preponderance of the
11 evidence.

12 Section 16.1330. Restriction of publication of reports of proceedings.

13 (1) Subject to subsection (4), no person shall publish any report of proceedings
14 under this Act (other than criminal proceedings) except with the leave of the Court that heard the
15 proceedings.

16 (2) Any person who contravenes subsection (1) commits an offense and is liable
17 on conviction to a fine not exceeding five thousand dollars.

18 (3) Nothing in this section limits:

19 (a) the provisions of any other enactment relating to the prohibition or
20 regulation of the publication of reports or particulars relating to judicial proceedings; or

21 (b) the power of the Court to punish any contempt of Court.

1 (4) This section shall not apply to the publication of any report in any
2 publication that:

- 3 (a) is of a bona fide professional or technical nature; or
- 4 (b) is intended for circulation among members of the legal or medical
5 professions, officers of the Public Service, psychologists, marriage counselors or social welfare
6 workers.

7 Section 16.1331. Orders by consent. In any proceedings under this Act a Court may
8 make any order by the consent of all the parties to such proceedings.

9 Section 16.1332. Counseling. The Court may, on making an order under this Act,
10 recommend either or both parties to participate in counseling of such nature as the Court may
11 specify.

12 Section 16.1333. Appeals.

13 (1) Any person aggrieved by:

- 14 (a) the making of an order by the Court; or
- 15 (b) the refusal of the Court to make an order;

16 May appeal to the Appellate Division of the FSM Supreme Court.

17 (2) Except where the Court that makes an order under this Act otherwise
18 directs, the operation of such order shall not be suspended by virtue of an appeal under this
19 section, and every such injunction or other order may be enforced in the same manner and in all
20 respects as if no appeal under this section were pending.

21 Section 16.1334. Protection of mortgagee.

1 (1) The rights conferred on any person in respect of any property by an order
2 made under this Act shall be subject to the rights of any other person entitled to the benefit of
3 any mortgage, security, charge or encumbrance affecting the property is such mortgage, security,
4 charge or encumbrance was registered before the order was registered or if the rights of that
5 other person entitled to that benefit arise under an instrument executed before the date of the
6 making of the order.

7 (2) Notwithstanding anything in any enactment or in any instrument.. no
8 moneypayable under any such mortgage, security, charge or encumbrance shall be called up or
9 become due by reason of the making of an order under this Act.

10 Section 16.1335. Rules of Court. Rules of Court may be made for the purpose of
11 regulating the practice and procedure of the Court in proceedings under this Act providing for
12 such matters as are necessary for giving full effect to the provisions of this Act and for the due
13 administration thereof.”

14 Section 4. Effective Date. This Act takes effect upon approval by the Governor or upon
15 its becoming law without such approval.

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1 PASSED BY THE TENTH KOSRAE STATE LEGISLATURE ON THE 27TH DAY OF

2 FEBRUARY 2014.

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7 Gibson T. Siba
8 Speaker, Tenth Kosrae State Legislature

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10 Attested by: 
11 Chief Clerk

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18 Lyndon H. Jackson
19 Governor, State of Kosrae

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21 Date: 3/14/14