March 18, 2013

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 akkaleyme la nga sign L.B. No. 10-121, L.D.2 su inge a orala State Law No. 10-63.

"TO AMEND TITLE 13 OF THE KOSRAE STATE CODE, AS AMENDED, BY ADDING A NEW CHAPTER 8 TO ESTABLISH THE ANTI-HUMAN TRAFFICKING AND PEOPLE SMUGGLING ACT OF 2013; 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

/jpa
March 2013

The Honorable Lyndon H. Jackson
Governor
State of Kosrae
Kosrae, FM 96944

Dear Governor Jackson:

I have the honor to transmit herewith for your consideration and action L. B. NO. 10-121, L.D. 2, TO AMEND TITLE 13 OF THE KOSRAE STATE CODE, AS AMENDED, BY ADDING A NEW CHAPTER 8 TO ESTABLISH THE ANTI-HUMAN TRAFFICKING AND PEOPLE SMUGGLING ACT OF 2013; AND FOR OTHER PURPOSES., which passed the Legislature, Fifth Regular Session, by two-thirds of the members of the Legislature, a quorum being present.

Respectfully yours,

Yosie K. Elley
Chief Clerk
Tenth Kosrae State Legislature

Enclosures
LEGISLATIVE BILL NO. 10-121, L.D. 2

TENTH KOSRAE STATE LEGISLATURE
FIFTH REGULAR SESSION

A BILL FOR AN ACT

TO AMEND TITLE 13 OF THE KOSRAE STATE CODE, AS AMENDED, BY ADDING A NEW CHAPTER 8 TO ESTABLISH THE ANTI-HUMAN TRAFFICKING AND PEOPLE SMUGGLING ACT OF 2013; AND FOR OTHER PURPOSES.

INTRODUCED Senator Chang B. William

DATE: February 11, 2013

ACTION BY THE LEGISLATURE

PASSED FIRST READING: February 13, 2013

REFERRING TO: Committee on J&GO
SCR. No. 10-150 – A – 2/13/13

PASSED SECOND READING: February 15, 2013

Tosie K. Elley
Chief Clerk
KOSRAE STATE LEGISLATURE
LEGISLATIVE BILL NO. 10-121, L.D. 2

We hereby certify that the foregoing Bill has passed Second and Final Readings in the Legislature, Fifth Regular Session, 2013, by two-thirds of the members of the Tenth Kosrae State Legislature, a quorum being present.

Gibson T. Siba
Speaker
Tenth Kosrae State Legislature

Tosie K. Elley
Chief Clerk
Tenth Kosrae State Legislature
A BILL FOR AN ACT

To amend Title 13 of the Kosrae State Code, as amended, by adding a new Chapter 8 to establish the Anti-Human Trafficking and People Smuggling Act of 2013; and for other purposes.

1. Section 1. Statement of Purpose.

1. To prevent and combat human trafficking and people smuggling;

2. To punish traffickers and smugglers; and

3. To protect and assist the victims of such trafficking or smuggling, with respect for their human rights.

Section 2. Findings. Trafficking in Persons in modern-day slavery. Millions of people worldwide, especially women and children, are enslaved in forced labor, bonded labor, forced child labor, sexual exploitation, and involuntary servitude. Trafficking in Persons deprived people of their human rights and freedom. There is a need to join the international, regional and national community to combat the crimes of human trafficking and people smuggling. There is a need to protect our people, domestically and abroad, from these heinous crimes. Accordingly, the 10th Kosrae State Legislature hereby finds that it is imperative to enact the “Kosrae State Anti-Human Trafficking and People Smuggling Act of 2013”.

Section 3. Amendment. Title 13 of the Kosrae State Code is hereby amended by inserting a new Chapter 8 to read as follows:

“Section 13.801. Short Title. This Act shall be known and may be cited as Anti-Human Trafficking and People Smuggling Act of 2013.”
Section 13.802. Definitions:

(a) “Child” means a person who is less than 18 years of age at the time of the commission of an offense under this Chapter.

(b) “Commercial carrier” means a company, or the owner, operator of any means of transportation that engages in the transportation of goods or people for commercial gain.

(c) “Company” means a corporation, partnership, or other entity that is not an individual.

(d) “Exploitation” means sexual servitude, exploitation of another person through prostitution, forced labor or services, slavery, or obtaining labor or services through deceit, fraud or by means of material misrepresentation.

(e) “Fraudulent travel or identity document” means a travel or identity document that:

(1) Has been made or altered in a material way, by a person other than a person or agency lawfully authorized to make or issue the travel or identity on behalf of the country that issued the document; or

(2) has been issued or obtained through misrepresentation, bribery, corruption, duress, or in any other unlawful manner; or

(3) is being improperly used by a person other than the rightful holder.

(f) “Illegal entry” means crossing the border of Kosrae State or any other FSM State or the national borders without complying with the requirements for lawful entry of the
(g) "People smuggling" means arranging or assisting a person's illegal entry into any country or state of which the person is not a citizen, including Kosrae State, either knowing or being reckless as to the fact that person's entry is illegal.

(h) "People trafficking" means the recruitment, transportation, transfer, harboring or receipt of a person for the purpose of exploitation as described in section 13.806 and 13.907.

(i) "Receiving country" means any country into which a trafficked person is brought as part of an act of people trafficking.

(j) "Smuggled person" means any person who is a victim or object of an act of people smuggling, regardless of whether the smuggled person successfully arrives in the receiving country.

(k) "Trafficked person" means any person who is the victim or object of an act of people trafficking.

Section 13.803. Offense of People Smuggling. A person who engages in people smuggling shall be guilty of people smuggling regardless of whether the smuggled person arrives in the receiving country. People smuggling is a category one felony.

Section 13.804. Offense of Aggravated People Smuggling. A person who engages in people smuggling under circumstances in which the life or safety of the smuggled person is or is likely to be endangered, shall be guilty of aggravated people smuggling regardless of whether the smuggled person arrives in the receiving country. Aggravated people smuggling is a category
one felony.

Section 13.805. Offense of Fraud in Aid of Smuggling. A person who makes, obtains, gives, sells, or possesses a fraudulent travel or identity document for the purpose of facilitating people smuggling or facilitating continued presence of a smuggled person in a receiving country shall be guilty of fraud in aid of smuggling. Fraud in aid of smuggling is a category one felony.

Section 13.806. Offense of People Trafficking. A person who knowingly or recklessly recruits, transports, transfers, harbors or receives any person or persons for the purpose of exploitation by threat, use of forced, abduction, fraud, deception, abuse of power, or the giving or receiving of payments or benefits to achieve the consent of a person having control of another person, shall be guilty of people trafficking. People Trafficking is a category one felony.

Section 13.807. Offense of Trafficking in Children. A person knowingly or recklessly recruits, transport, harbors or receives a child by any means for the purpose of exploitation shall be guilty of trafficking in children. Trafficking in children is a category one felony.

Section 13.808. Offense of Exploiting a Trafficked Person. A person who knowingly or recklessly engages in, participates in, or profits from the exploitation of a trafficked person shall be guilty of exploiting of a trafficked person. Exploiting a trafficked person is a category one felony.

Section 13.809. Consent of Trafficked Person or Smuggled Person Irrelevant. Consent to the act or acts constituting an offense on the part of a smuggled person under sections 13.803 and 13.804, or a trafficked person under section 13.806, 13.807 and 13.808, is not a legal
defense.

Section 13.810. Immunity of Trafficked Person. A trafficked person shall not be subject to criminal prosecution with respect to:

(a) The act of people trafficking;

(b) That person’s illegal entry into the receiving country;

(c) That person’s period of unlawful residence in the receiving country; and

(d) That person’s procurement or possession of any fraudulent travel or identity documents which he or she obtained, or with which he or she was supplied, for the purpose of entering the receiving country.

Section 13.811. Scope of Application. The offense described in section 13.803 to 13.808 hereof apply, regardless of whether the conduct constituting the offense took place inside or outside Kosrae if:

(a) Kosrae State is the receiving state or the exploitation occurs in Kosrae State;

(b) The receiving country is a foreign country but the people smuggling or people trafficking started in Kosrae State or transits Kosrae State; or

(c) The person who engages in the people smuggling or people trafficking is a resident of, a person based in, or was located in Kosrae State when they engaged in people smuggling or people trafficking.

Section 13.812. Obligations of Commercial Carriers. If a commercial carrier carries a person into Kosrae State and, upon entry into Kosrae State, the person does not have the travel...
documents required for lawful entry, the commercial carrier shall be liable to pay the costs of the
person detention in, and removal from Kosrae State unless;
(a) the carrier had reasonable grounds to believe that the documents that the
person had were the travel documents required for legal entry of that person into Kosrae State; or
(b) the person possessed the travel documents required for lawful entry into
Kosrae State when that person boarded, or last boarded, the means of transport to travel to
Kosrae State; or
(c) entry into Kosrae State occurred only because of illness of or injury to a
person on board, stress of weather, or other circumstances beyond the control of the commercial
carrier.
Section 13.813. The Kosrae State Attorney General shall establish a State Action Plan
against trafficking in persons to include guidelines for providing assistance to victims of
trafficked persons and witnesses of trafficking in persons.
Section 13.814. Rights of Victims.
1. A trafficked person shall not be subject to the criminal prosecution with respect to:
(a) the act of human trafficking;
(b) that person’s entry into the receiving country;
(c) that person’s unlawful residence in the receiving country; and
(d) that person’s procurement or possession of any fraudulent travel or identity
document.
2. The Attorney General shall coordinate with the Department of Justice of the Federated States of Micronesia to address the following victim support issues:

(a) providing adequate protection to victims and witnesses of human trafficking if their salary is at risk, including measures to protect them, and their families, from intimidation and retaliation by traffickers and their associates;

(b) providing victims with the opportunity to protect their views, needs, interests, and concerns for consideration at appropriate stages of any judicial or administrative proceedings relating to the offense, either directly or through a representative, without prejudice to the rights of the defense;

(c) where the victim is an unaccompanied child, providing for the appointment of a legal guardian to represent the interests of the child, taking all necessary steps to establish his or her identity and nationality, and making every effort to locate his or her family when this is in the best interest of the child;

(d) where the victims is a national of the Federated States of Micronesia, facilitating and accepting the return of the victim without undue or unreasonable delay and with due regard for his or her rights and safety;

(e) where the victims is not a national of the Federated States of Micronesia and requests to return to his or her country of origin or the country in which he or she had the right of permanent residence at the time he or she was trafficked, facilitating such return, including arranging for the necessary travel documents, without undue delay and with due regard for his or
her rights and safety;

(f) providing information to all victims on the nature of protection, assistance and
support to which they are entitled and the possibilities of assistance and support by non-
governmental organizations and other agencies as well as information on any legal proceedings
related to them. Such information shall be provided in a language and form that the victim
understands.

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

PASSED BY THE TENTH KOSRAE STATE LEGISLATURE ON THE 15TH DAY OF
FEBRUARY, 2013.

Gibson T. Siba
Speaker, Tenth Kosrae State Legislature

Attested by: ________________________________
Chief Clerk

Lyndon H. Jackson
Governor, State of Kosrae

Date: 3/6/2013