

TENTH KOSRAE STATE LEGISLATURE  
SECOND REGULAR SESSION

L. B. No. 10-44

A BILL FOR AN ACT

To insert a new Chapter 14 in Title 13 of the Kosrae State Code containing the "Anti People Smuggling and Trafficking Act" which will include criminal penalties for smuggling people and trafficking in people via Kosrae State.

BE IT ENACTED BY THE KOSRAE STATE LEGISLATURE:

1       Section 1.   Purpose.       To provide for the creation of criminal offences  
2       within the Kosrae State Code which will criminalize and allow for the prosecution of  
3       those persons who engage in the crime of people smuggling or trafficking vja Kosrae  
4       State.

5       Section 2.   Findings.       The Tenth Kosrae State Legislature finds that the  
6       current Kosrae State Code does not contain adequate provisions or definitions relating to  
7       the crime of people smuggling or trafficking. The Legislature recognizes that people  
8       smuggling or trafficking are serious offences and that amendments to the Code are  
9       necessary to reflect this by way of the insertion of a new Act this being the "Anti People  
10      Smuggling and Trafficking Act".

11      Section 3.   Amendment.   Chapter 14, Title 13 of the Kosrae State Code is  
12      hereby inserted to read as follows:

13                    13.401  
14      **Section 14.101. Short Title.** This Act shall be known and may be cited as the  
15      Anti-People Smuggling and Trafficking Act.

16      **Section 14.102. Definitions:**

17                   (a) "Child" means a person who is less than 18 years of age.

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(b) "Commercial carrier" means a company, or the owner, operator or master 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's prostitution, forced labor or services, slavery, or obtaining labor or services through deceit, fraud, or by means of a 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 document 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 FSM National Borders without complying with the requirements for lawful entry of that State.

(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 the person's entry is illegal.

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(h) "People trafficking" means the recruitment, transportation, transfer, harboring or receipt of a person for the purposes of exploitation as described in section 5 or 6.

(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 that person participated in the people smuggling.

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

**Section 14.103. Offense of People Smuggling.** Every person who engages in people smuggling shall be guilty of people smuggling regardless of whether the smuggled person arrives in the receiving country and upon conviction thereof shall be fined not more than \$25,000, or imprisoned not more than 10 years, or both.

**Section 14.104. Offense of Aggravated People Smuggling.** Every 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, and upon conviction thereof shall be fined not more than \$50,000 or imprisoned not more than 15 years, or both.

**Section 14.105. Offense Relating to Fraudulent Travel or Identity Documents.**

Every person who makes, obtains, gives, sells, or possesses a fraudulent travel or identity document for the purpose of facilitating people smuggling or facilitating the continued presence of a smuggled person in a receiving country shall be guilty of travel document fraud, and upon conviction thereof shall be fined not more than \$25,000, or imprisoned not more than 10 years, or both.



**Section 14.106. Offense of People Trafficking.** Every person who knowingly or recklessly recruits, transports, transfers, harbors or receives any person or persons for the purpose of exploitation by threat, use of force, abduction, fraud, deception, abuse of power, or the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, shall be guilty of people trafficking, and upon conviction thereof shall be fined not more than \$250,000, or imprisoned not more than 25 years, or both.


**Section 14.107. Offense of Trafficking in Children.** Every person who knowingly or recklessly recruits, transports, transfers, harbors or receives a child by any means for the purposes of exploitation shall be guilty of trafficking in children and, upon conviction thereof, shall be fined not more than \$500,000, or imprisoned for not more than 50 years, or both.

**Section 14.108. Offense of Exploiting a Trafficked Person.** Every person who knowingly or recklessly engages in participates in, or profits from the exploitation of a trafficked person shall be guilty of exploitation of a trafficked person and, upon conviction thereof, shall be fined not more than \$50,000, or imprisoned for not more than 10 years, or both.

**Section 14.109. Consent of Trafficked Person Irrelevant.** For section 5, 6 and 7 hereof, it is not a defense that the trafficked person consented to the people trafficking or to the exploitation.

**Section 14.110. 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 14.111. Scope of Application.** The offenses described in sections 2,3,4,5,6, and 7 hereof apply, regardless of whether the conduct constituting the offense took place inside or outside Kosrae State 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 14.112. Obligation 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's 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 lawful entry of that person into the 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.

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

3  
4   Date: 9/7/11

Introduced by: *Chang B William*  
Senator Chang B William