

AN ACT

To provide for random drug testing for Koror State Government employees and officials, to provide for penalties for violations of this Act, to authorize the sum of \$2,500.00 for drug testing, and for related purposes.

THE PEOPLE OF KOROR REPRESENTED IN THE LEGISLATURE OF THE STATE OF KOROR DO ENACT AS FOLLOWS:

SECTION 1. DEFINITIONS.

A. As used in this Act:

(1) "employee" means every person who is considered as an employee of Koror State Government and the Koror State Public Land Authority under the law of "master and servant" as set forth in the American Law Institute "Restatements" of the law for master and servant relations. Employee shall not include elected officials, or members of the House of Traditional Leaders.

(2) "drug test" or "drug testing" means a test of urine, hair, or other bodily fluid or tissue that is used to determine the presence of any controlled substance, or which is used to identify the type of controlled substance found in a person's urine, hair, tissue, or bodily fluid. A drug test must be performed by a licensed or certified drug testing laboratory, or a physician qualified to perform drug tests, and the results shall be in writing which shall contain sufficient information to identify the person who took the test and for whom the results were obtained.

(3) "testing period" means any three month period of the year in which employees are selected for drug testing by their supervisor or the Governor.

(4) "controlled substance" means any controlled substance as defined in 34 PNCA § 3001 et seq.

B. All words used in the plural shall also include the singular form of the word, and all words used in the singular shall include the plural form of the word.

SECTION 2. RANDOM DRUG TEST REQUIRED; PROCEDURES AND
PENALTIES.

A. Every employee shall comply with and be bound by the provisions of this Act relating to testing and post-test procedures, requirements, conditions, and consequences.

B. At least once every three months, ten employees shall be selected at random by the Governor, and each of the ten employees selected at random shall take a drug test at such time and place as may be determined by the Governor of the State of Koror. Any employee who refuses to submit to a drug test after being randomly selected by the Governor shall be immediately terminated from employment.

C. If an employee tests "positive" for the presence of any controlled substance, then such employee shall be placed on probation for a period of ninety (90) days; such probation shall be under the terms and conditions as follows: the employee shall not consume, possess, distribute, or otherwise come into contact with any controlled substance, and shall not associate or come into contact with other persons who possess, consume, or distribute any controlled substance. At the end of the ninety (90) day probation period, then the employee shall submit to a second drug test; if the employee tests positive for the presence of any controlled substance in this second drug test, the employee shall be terminated as an employee of the State of Koror. If, at any time, an employee tests "negative" for controlled substance, then that employee shall not be subject to another drug test unless that employee's supervisor provides, in writing, specific reasons to suspect the employee is using drugs, and the Governor agrees that a drug test is needed.

D. Notwithstanding the provisions of subsection C above, any employee that is a member of the Koror State Rangers may be selected at any time by the Governor for testing in accordance with subsection B above.

E. Any employee who is terminated for failing to submit to a drug test may be reinstated upon submitting to a drug test under the procedures set forth in this Act, and thereafter, the continued employment or payment of any wage or honorarium or other payment shall be upon the terms and conditions of this section and this Act.

F. Any employee who is terminated as an employee, or whose payment from Koror State Government has been suspended, as a result of a positive drug test for any controlled substance may be reinstated as an employee, or may begin receiving payments from Koror State Government, upon testing negative for the presence of any controlled substance in a subsequent drug test.

G. The costs and expenses of the initial drug test called for by this section shall be borne by the State of Koror. The costs and expenses of any subsequent drug test shall be paid for by the affected employee, and may be deducted from the wages, salaries, or other payment made to the employee by Koror State Government in such amounts and intervals as determined by the Governor.

H. Any employee aggrieved by the procedures, requirements, or consequences of this Act may appeal in writing to the Governor. The Governor shall consider the written appeal and shall issue a determination or other findings as necessary within ten (10) days of receipt of the written appeal. The affected employee shall comply with the terms, conditions, or findings of the Governor, or such employee may file an action in the Trial Division of the Supreme Court within six (6) months of the date that the written findings or determination of the Governor is received by the affected employee.

I. The Governor shall promulgate written rules, regulations, and other procedures to implement this Act. The Governor shall have the authority to accept any drug test result, or to order the affected employee to take a subsequent drug test in the event of any incomplete drug

test or other result which cannot be verified or determined due to human error or the error of any drug testing equipment or facilities.

SECTION 3. AUTHORIZATION. There is hereby authorized the sum of \$2,500.00 to pay for obtaining drug test kits, supplies, or materials, and to pay for the costs and expenses of drug testing such as laboratory costs, transportation expenses, and other fees or charges relating to drug testing. The Governor may also reprogram funds to administer this Act. These funds shall be administered by the Governor.

SECTION 4. SEVERABILITY. In the event that a court of competent jurisdiction determines that any part or portion of this law is invalid, then the offending portion or portions may be stricken, and the remaining portions shall continue in full force and effect.

SECTION 5. EFFECTIVE DATE. This Act shall become effective upon its becoming law by operation of the Koror State Constitution.

PASSED: July 14, 1998

CERTIFIED BY:

ATTESTED TO BY:

/s/ _____
Salvador Tellames, Speaker
6th Koror State Legislature

/s/ _____
Charlyne Uong, Clerk
6th Koror State Legislature

APPROVED THIS _____ DAY OF _____, 1998.

/s/
John C. Gibbons
Governor
Koror State