

STANDING COMMITTEE REPORT NO. 15-78

RE: C.B. NO. 15-56/JGO

SUBJECT: SPOUSE PERMIT ENTITLEMENT FOR WIDOW(ER)S WHO HAVE RESIDED IN
THE FSM AT LEAST TWENTY YEARS

FEBRUARY 12, 2008

The Honorable Isaac V. Figir
Speaker, Fifteenth Congress
Federated States of Micronesia
Third Regular Session, 2008

Dear Mr. Speaker:

Your committee on Judiciary and Governmental Operations, to which was referred C.B. No. 15-56, entitled:

"A BILL FOR AN ACT TO FURTHER AMEND TITLE 50 OF THE CODE OF THE
FEDERATED STATES OF MICRONESIA, AS AMENDED, BY AMENDING SECTION 103 TO
PREVENT THE REVOCATION OR DENIAL OF SPOUSE PERMITS FROM NON-CITIZEN
SPOUSES OF DECEASED CITIZENS WHO HAVE RESIDED IN THE FEDERATED STATES
OF MICRONESIA FOR AT LEAST TWENTY (20) YEARS.",

begs leave to report as follows:

The intent and purpose of the bill are expressed in its title.

C.B. No. 15-56 proposes to create an entitlement to a spouse permit for non-citizen widows and widowers of FSM citizens who have resided in the FSM for at least twenty years. The spouse permits of individuals who meet these criteria will not be revoked or denied unless or until the surviving spouse remarries a non-citizen.

Your committee notes that, currently, non-citizen widows and widowers of FSM citizens lose their entitlement to spouse permits on divorcing or separating from the citizen spouse or when the citizen spouse is deceased. If the non-citizen spouse wishes to continue to reside in the FSM, she or he must pay a change of status fee of \$1,000 USD and apply for another type of entry permit, such as a visitor permit or a work permit. The spouse permit allows its holder to undertake paid employment in the FSM.

The subject bill would benefit only widows and widowers who have resided in the FSM for at least twenty years and therefore would not apply to divorced or separated non-citizens or widows and widowers who have resided in the FSM for less than twenty years. Those who are eligible under the bill would not have to pay the change of status fee and their entitlement to the spouse permit would continue until marriage to a non-citizen.

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This bill is intended to offer a benefit to long-time FSM residents and spouse permit holders. After such long residences in the FSM, such individuals are likely to have children and grandchildren who are FSM citizens and may be less likely to wish to return to their country of citizenship.

Finally, your committee notes that this bill would not benefit citizens of the United States of America for the effective period of the Compact of Free Association, as American spouses of FSM citizens do not require entry permits to reside in the FSM. See section 142, article IV, "Immigration" of the Amended Compact of Free Association: "If a citizen or national of the United States is a spouse of a citizen of the Federated States of Micronesia, the Government of the Federated States of Micronesia shall allow the United States citizen spouse to establish residence".

Public Hearings

Your committee held hearings in each of our four states to gather views and suggestions regarding the subject bill. A summary of comments at these hearings follows.

Kosrae

There was a suggestion that the words "a non-citizen" be added after the word "remarries" to clarify the fact that if a non-citizen surviving spouse were to marry another FSM citizen her or his entitlement to a spouse permit would continue.

Overall comments were in support of the bill.

Yap

Both the Yap State legislature and executive noted that they will deliver a Yap State position and that the hearings allow for personal opinions only.

The threshold of twenty years was questioned and comments were made that it seems a very long time.

There was a comment that the bill would exclude non-citizen widows and widowers who had been married to FSM citizens for thirty years, for example, but who had resided in the FSM for only ten years. It was suggested that the twenty-year residency requirement to receive the benefit may "force" people to live in the FSM if they wish to be eligible for the benefit. Some couples return to the FSM just before

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retirement. It was suggested that FSM citizenship simply be granted to spouses of FSM citizens who apply.

A comment was made asking members to reflect on who we are really protecting when we make laws to protect ourselves? With more international marriage, our laws may be obsolete and not accommodating of the realities many of our citizens are living.

After the hearing, the Office of the Governor of Yap State submitted written comments, dated 1 February 2008. It is suggested that the twenty-year requirement is too long and that serious consideration be given to reducing the residency period to between ten and fifteen years.

Chuuk

There was a comment that the threshold of twenty years seems unreasonably long. It was suggested that the benefit proposed to be created by this bill be made available to all non-citizen spouses who reside in the FSM, regardless of the length of residence, by deleting the words "for at least twenty years". In this way, a non-citizen widow or widower would always be entitled to a spouse permit until remarriage to a non-citizen.

There was another comment that the 20-year residency requirement seems arbitrary. The priority should be to protect children so that they may still remain in the FSM with their surviving non-citizen parent if their FSM citizen parent passes away. With this in mind, there should be no residency requirement at all or of one or two years only.

Pohnpei

There was overall support for this bill from the Office of the Governor. There was a question as to whether the 20 years must be cumulative or consecutive. It was suggested that the length of the marriage be considered, rather than residence in the FSM.

In written comments dated 7 February 2008, the Pohnpei State Legislature suggested that the requirement of twenty years' residence in the FSM be expanded to include residence in other countries.

Recommendations of your Committee

Your Committee has given careful consideration to the proposed amendments in C.B. No. 14-56 and considers that the proposed amendment represents an improvement upon the existing law in that it offers

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stability to spouses of FSM citizens who are widowed after lengthy residence in the FSM. However, following consultations in each of the states and deliberations among your committee, we recommend that the requirement of residence in the Federated States of Micronesia for at least twenty years be changed to a requirement that the couple have been married for at least twenty years. This will address concerns regarding couples who may have resided outside of the FSM for the major part of their marriage before returning to the FSM at a later time. This recommended amendment is reflected in the attached CD1 version of the bill.

With the foregoing changes, your Committee on Judiciary and Governmental Operations is in accord with the intent and purpose of C.B. No. 15-56 and recommends its passage on First Reading, and that it be placed on the calendar for Second and Final reading in the form attached hereto as C.B. No. 15-56, C.D.1.

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Respectfully submitted,

/s/ Peter Sitan
Peter Sitan, chairman

/s/ Fredrico O. Primo
Fredrico O. Primo, vice chairman

/s/ Tiwiter Aritos
Tiwiter Aritos, member

Isaac V. Figir, member

Dohsis Halbert, member

/s/ Moses A. Nelson
Moses A. Nelson, member

/s/ Paliknoa K. Welly
Paliknoa K. Welly, member