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A BILL FOR AN ACT

To further amend title 2 of the Code of the Federated States of Micronesia, as amended, by amending section 206, for the purpose of allowing attorneys from the Department of Justice of the Federated States of Micronesia to assist in a State prosecution under certain limited circumstances, and for other purposes.

BE IT ENACTED BY THE CONGRESS OF THE FEDERATED STATES OF MICRONESIA:

1           Section 1. Section 206 of title 2 of the Code of the  
2 Federated States of Micronesia is hereby amended to read as  
3 follows:

4                   "Section 206. Duties, responsibilities, and  
5                   functions of departments and offices.

6                           (1) The respective duties,  
7 responsibilities, and functions of each department  
8 and office within the organization of the executive  
9 branch of the Government of the Federated States of  
10 Micronesia shall be as established by, and in  
11 accordance with, administrative directive of the  
12 President until amended or superseded by law. The  
13 President shall also provide for subdivisions of  
14 departments and offices and shall set forth the  
15 duties, responsibilities, and functions thereof by  
16 administrative directive.

17                           (2) Notwithstanding subsection (1) of  
18 section 206 of this title, the Secretary of the  
19 Department of Justice may, at his discretion, assign  
20 any attorney who is employed by that Department to  
21 assist a State in a prosecution alleging a violation  
22 of the State's criminal laws under the following  
23 circumstances:

24                                   (a) the State, through its Governor,  
25 its Attorney General, or chief judge of its highest

1 court, has requested such assistance in writing; and

2 (b) the State's Attorneys General are  
3 unable to prosecute the action fully and fairly;

4 (c) funding the assistance would not  
5 jeopardize the ability of the Department of Justice  
6 to perform essential services.

7 (3) If an attorney employed by the  
8 Department of Justice is assigned to prosecute a  
9 State criminal action under subsection (2) of this  
10 section, the official who requested that assistance  
11 may terminate the authority of the attorney who is  
12 employed by the Department of Justice to prosecute  
13 that action, with or without cause.

14 (4) If the authority of an attorney who  
15 is employed by the Department of Justice to  
16 prosecute a State criminal action is terminated in  
17 accordance with subsection (3) of this section, any  
18 official described in subsection 2(a) of this  
19 section may validly request the appointment of  
20 another attorney who is employed by the Department  
21 of Justice to resume prosecution of the criminal  
22 action.

23 (5) An FSM attorney who is assigned under  
24 subsection (2) of this section shall take all  
25 practicable steps to assure that a reasonably

1 diligent investigation occurs or has occurred, and  
 2 the assigned attorney shall proceed accordingly.  
 3 Nothing within this section shall be construed to  
 4 require the assigned attorney to file charges or any  
 5 other particular documents in court against the  
 6 target of the criminal investigation.

7 Section 2. This act shall become law upon approval by the  
 8 President of the Federated States of Micronesia or upon its  
 9 becoming law without such approval.

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 11 Date: 6/2/98

Introduced by: Claude H. Phillip  
 Claude H. Phillip

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