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:

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

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

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shall be as established by, and in accordance with, administrative directive of the President until amended or superseded by law.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

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

(a) the State, through its Governor, its Attorney General, or chief judge of its highest
court, has requested such assistance in writing; and
(b) the State's Attorneys General are
unable to prosecute the action fully and fairly;
(c) funding the assistance would not
jeopardize the ability of the Department of Justice
to perform essential services.
(3) If an attorney employed by the
Department of Justice is assigned to prosecute a
State criminal action under subsection (2) of this
section, the official who requested that assistance
may terminate the authority of the attorney who is
employed by the Department of Justice to prosecute
that action, with or without cause.
(4) If the authority of an attorney who
is employed by the Department of Justice to
prosecute a State criminal action is terminated in
accordance with subsection (3) of this section, any
official described in subsection 2(a) of this
section may validly request the appointment of
another attorney who is employed by the Department
of Justice to resume prosecution of the criminal
action.
(5) An FSM attorney who is assigned under
subsection (2) of this section shall take all
practicable steps to assure that a reasonably
diligent investigation occurs or has occurred, and
the assigned attorney shall proceed accordingly.
Nothing within this section shall be construed to
require the assigned attorney to file charges or any
other particular documents in court against the
target of the criminal investigation.

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

Date: 6/2/98

Introduced by: Claude H. Phillip