AN ACT

To further amend revised title 11 of the Code of the Federated States of Micronesia, as enacted by Public Law No. 11-72, by amending sections 102, 104, 301, 506, 511, 907 and 940, as enacted by Public Law No. 11-72, to make technical corrections; by enacting a new section 1001; and for other purposes.

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

Section 1. Section 102 of title 11 of the Code of the Federated States of Micronesia, as enacted by Public Law No. 11-72, is hereby amended to read as follows:

"Section 102. Applicability to crimes committed before and after effective date.

(1) Except as provided in subsection (2) of this section, this act does not apply to crimes committed before its effective date. For purposes of this section, a crime is committed before the effective date if any of the elements of the crime occurred before that date.

(2) Prosecutions for crimes committed before the effective date are governed by the prior law, which is continued in effect for that purpose, as if this act were not in force."

Section 2. Section 104 of title 11 of the Code of the Federated States of Micronesia, as enacted by Public Law No. 11-72, is hereby amended to read as follows:

"Section 104. Definitions. The definitions in this section shall apply throughout this title, unless otherwise specified or a different meaning is plainly required.

(1) 'Crime' means an act committed or omitted in violation of any law forbidding or commanding it, and which, upon conviction, is punishable by either or both of the following:
(a) imprisonment; or
(b) fine.

(2) 'Criminal negligence' means to engage in conduct which creates a substantial and unjustifiable risk of bodily injury to another, or to engage in conduct which constitutes gross deviation from the standard of care that a reasonable person would exercise, which conduct causes the criminal result.

(3) 'Felony' means any crime which is punishable by imprisonment for more than one year.

(4) 'Intent' means acting with the conscious purpose to engage in the conduct specified, refrain from the omission specified or cause the specific result.

(5) 'Knowledge' means being aware of the nature of the conduct or omission or of the existing circumstances, or believing that a fact exists which brings the conduct or omission within the provisions of this code. It does not require any knowledge of the unlawfulness of such conduct or omission.

(6) 'Misdemeanor' means any crime which is not a felony.

(7) 'National crime' means:
(a) any crime which is
   (i) inherently national in character and defined anywhere in this title; or
   (ii) otherwise a crime against the Federated States of Micronesia.
(b) A crime is 'inherently national in character' when any of the following is true:

(i) the crime is committed in the exclusive economic zone of the Federated States of Micronesia as defined in title 18 of this Code;

(ii) the crime is committed in the airspace above the territory comprising the Federated States of Micronesia as defined in article I, section 1 of the FSM Constitution;

(iii) the crime is committed on any airborne vehicle of the National Government, regardless of that vehicle's location;

(iv) the crime is committed on any watergoing vessel flagged and registered by the Federated States of Micronesia regardless of that watergoing vessel's location;

(v) the crime is committed on any watergoing vessel of the National Government regardless of that vessel's location;

(vi) the crime is committed against a national public servant in the course of, in connection with, or as a result of that person's employment or service;

(vii) the crime is committed against a former national public servant in retaliation for an act undertaken while that person was engaged in public service and within the scope of his or her official duties;

(viii) the crime is committed by a national public
official or public servant while that person is engaged in
his or her official duties or in violation of a fiduciary
duty;

(ix) the crime involves property belonging to the
National Government; or

(x) the crime is committed against any person
participating in or attempting to participate in a national
election.

(8) 'Official proceedings' means any proceeding conducted
by or under the supervision of a judge, magistrate, judicial
officer or other public official in relation to any alleged
offense or proven offense, and includes an inquiry,
investigation, or preliminary or final determination of
facts.

(9) Person. The terms 'person', 'he', 'she', 'accused' and
'defendant' include any natural or legal person, including
but not limited to, a government, corporation or
unincorporated association, or other organization.

(10) 'Principal' means a person who commits or participates
in the commission of a crime and shall include a co-
conspirator, accomplice or an aid or abettor.

(11) 'Public official' and 'public servant' means any person
elected, appointed or employed to perform a governmental
function on behalf of the Federated States of Micronesia, or
any department, agency or branch thereof, or any allottee as
defined in the Financial Management Act of 1979 or any successor law, in any official function under or by authority of any such agency or branch of government. The terms include, but are not limited to, the President, Vice President, department heads and other government employees, legislators, judges, law enforcement officers, advisors and consultants, but do not include witnesses.

(12) 'Reckless' means to engage in conduct with a willful disregard for the safety of others or to engage in conduct in a manner that constitutes a gross deviation from the standard of care that a reasonable person would exercise in the situation.

(13) 'Serious bodily injury' means bodily injury which creates a high probability of death or which causes serious permanent disfigurement or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ, or other bodily injury of like severity.

(14) 'Willfully' means to act with a purpose or willingness to commit an act, or to make an omission. It does not require any intent to violate the law, or to injure another, or to acquire any advantage.

(15) 'Property' shall mean both real and personal property."

Section 3. Section 301 of title 11 of the Code of the Federated States of Micronesia, as enacted by Public Law No. 11-72, is hereby amended to read as follows:
"Section 301. Liability for crimes.

(1) A person shall be treated as a principal to a crime if that person:

(a) directly commits any act constituting a crime;

(b) while acting with the state of mind that is sufficient for the commission of the crime, causes an innocent person or person legally incapable, as defined by section 301A of this chapter, to engage in such conduct;

(c) having a legal duty to prevent the commission of a crime, fails to make proper effort to do so; or

(d) whether or not being present during the commission of the crime, intentionally aids, abets, advises, solicits, counsels, encourages, commands, threatens, menaces or coerces another to commit a crime, or conspires with or otherwise procures another to commit a crime.

(2) A person liable under subsection (1) of this section is also liable for any other crime committed in the pursuance of the intended crime if that crime is reasonably foreseeable by him as a probable consequence of committing, or attempting to commit, the crime intended.

(3) A person liable under this section may be charged with and convicted of the crime although other principals to the same crime have not been prosecuted or convicted, or have been convicted of a different crime or degree of crime."

Section 4. Section 506 of title 11 of the Code of the Federated
States of Micronesia, as enacted by Public Law No. 11-72, is hereby amended to read as follows:

"Section 506. Implements for escape and other contraband.

(1) A person commits a crime if:
(a) he or she unlawfully introduces, within a detention facility, or unlawfully provides an inmate of a detention facility with any weapon, tool, or other thing which may be useful for escape; or
(b) being an inmate of a detention facility, he or she unlawfully procures, makes, or otherwise provides himself or herself with, or has in his or her possession, any weapon, tool, or other thing which may be useful for escape.

(2) A person commits a crime if:
(a) he or she provides an inmate of a detention facility with anything which the defendant knows the inmate may not lawfully possess; or
(b) being an inmate of a detention facility, he or she unlawfully procures, makes, or otherwise provides himself or herself with, or has in his or her possession, anything which he or she knows is unlawful to possess.

(3) 'Detention facility' refers only to a detention facility owned or operated by the Federated States of Micronesia, or to any other detention facility if the inmate is detained therein pursuant to an arrest, charge, or conviction for a national crime, or to an accusation or
adjudication of delinquency based upon a national crime, or
detained for extradition or deportation purposes.

(4) 'Unlawfully' means surreptitiously or contrary to law,
regulation, or order of the detaining authority.

(5) A person convicted under this section shall be
imprisoned for not more than ten years if the unlawful item
provided or possessed was a deadly weapon. Otherwise, a
person convicted under this section shall be imprisoned for
not more than three years."

Section 5. Section 511 of title 11 of the Code of the Federated
States of Micronesia, as enacted by Public Law No. 11-72, is hereby
amended to read as follows:

"Section 511. Definitions. The definitions in this section
shall apply throughout this title, unless otherwise specified
or a different meaning is plainly required.

(1) 'Benefit' shall mean gain or advantage of any kind, and
shall include financial gain, property, service, or
improvement of condition.

(2) 'Business' shall mean businesses of any kind whether
situated in the Federated States of Micronesia or elsewhere
and whether incorporated or not.

(3) 'Family member' shall mean a parent, brother, sister,
spouse, nephew, niece or child, including a person who is
adopted legally or in accordance with custom, or for whom
care was given by the public official such that there exists
a relationship in the nature of parent and child. The term shall also include a spouse of any person referred to in this definition and their children.

(4) 'Interest' shall mean either direct ownership of, indirect ownership of, shares in, financial benefit from, or complete or partial control of, such property or business.

(5) 'National Government' shall mean the National Government of the Federated States of Micronesia, including any department, agency or branch thereof.

(6) 'Property' shall mean real or personal property of every description whether situated in the Federated States of Micronesia or elsewhere."

Section 6. Title 11 of the Code of the Federated States of Micronesia, as enacted by Public Law No. 11-72, is hereby amended to renumber subchapters "3" and "4" of chapter 5 as subchapters "III" and "IV" of chapter 5.

Section 7. Section 907 of title 11 of the Code of the Federated States of Micronesia, as enacted by Public Law No. 11-72, is hereby amended to read as follows:

"Section 907. Value of property.

(1) Subject to subsection (2) of this section, for the purposes of this chapter, the value of property (other than cash) in relation to any person holding the property is:

(a) its market value; or

(b) where an innocent third party holds an interest in
the property:

(i) the market value of the property, less the
interest of the innocent third party; and
(ii) less the amount required to discharge any
valid liens or encumbrances.

(2) References in this chapter to the value of a gift, or
the value of any payment or reward, means the value of the
gift, payment or reward to the recipient when it was
received, adjusted to account for any subsequent changes in
the value of money."

Section 8. Section 940 of title 11 of the Code of the Federated
States of Micronesia, as enacted by Public Law No. 11-72, is hereby
amended to underline the section title.

Section 9. Chapter 10 of title 11 of the Code of the Federated
States of Micronesia, as enacted by Public Law No. 11-72, is hereby
amended to enact a new section 1001 of chapter 10 to read as follows:

"Section 1001. Short Title. This chapter is known and may
be cited as the 'Federated States of Micronesia Weapons
Control Act'."

Section 10. This act shall become law upon approval by the
President of the Federated States of Micronesia or upon its becoming
law without such approval.

April 11", 2001
CONGRESSIONAL BILL NO. 11-210, C.D.1

Public Law No. 11-76

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/s/
Leo A. Falcam
President
Federated States of Micronesia

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