

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:

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

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

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

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

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

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

20 (1) 'Crime' means an act committed or omitted in violation
21 of any law forbidding or commanding it, and which, upon
22 conviction, is punishable by either or both of the following:

1 (a) imprisonment; or

2 (b) fine.

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

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

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

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

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

20 (7) 'National crime' means:

21 (a) any crime which is

22 (i) inherently national in character and defined
23 anywhere in this title; or

24 (ii) otherwise a crime against the Federated
25 States of Micronesia.

1 (b) A crime is 'inherently national in character' when
2 any of the following is true:

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

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

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

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

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

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

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

25 (viii) the crime is committed by a national public

1 official or public servant while that person is engaged in
2 his or her official duties or in violation of a fiduciary
3 duty;

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

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

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

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

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

22 (11) 'Public official' and 'public servant' means any person
23 elected, appointed or employed to perform a governmental
24 function on behalf of the Federated States of Micronesia, or
25 any department, agency or branch thereof, or any allottee as

1 defined in the Financial Management Act of 1979 or any
2 successor law, in any official function under or by authority
3 of any such agency or branch of government. The terms
4 include, but are not limited to, the President, Vice
5 President, department heads and other government employees,
6 legislators, judges, law enforcement officers, advisors and
7 consultants, but do not include witnesses.

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

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

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

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

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

1 "Section 301. Liability for crimes.

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

4 (a) directly commits any act constituting a crime;

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

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

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

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

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

25 Section 4. Section 506 of title 11 of the Code of the Federated

1 States of Micronesia, as enacted by Public Law No. 11-72, is hereby
2 amended to read as follows:

3 "Section 506. Implements for escape and other contraband.

4 (1) A person commits a crime if:

5 (a) he or she unlawfully introduces, within a
6 detention facility, or unlawfully provides an inmate of a
7 detention facility with any weapon, tool, or other thing
8 which may be useful for escape; or

9 (b) being an inmate of a detention facility, he or she
10 unlawfully procures, makes, or otherwise provides himself or
11 herself with, or has in his or her possession, any weapon,
12 tool, or other thing which may be useful for escape.

13 (2) A person commits a crime if:

14 (a) he or she provides an inmate of a detention
15 facility with anything which the defendant knows the inmate
16 may not lawfully possess; or

17 (b) being an inmate of a detention facility, he or she
18 unlawfully procures, makes, or otherwise provides himself or
19 herself with, or has in his or her possession, anything which
20 he or she knows is unlawful to possess.

21 (3) 'Detention facility' refers only to a detention
22 facility owned or operated by the Federated States of
23 Micronesia, or to any other detention facility if the inmate
24 is detained therein pursuant to an arrest, charge, or
25 conviction for a national crime, or to an accusation or

1 adjudication of delinquency based upon a national crime, or
2 detained for extradition or deportation purposes.

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

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

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

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

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

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

22 (3) 'Family member' shall mean a parent, brother, sister,
23 spouse, nephew, niece or child, including a person who is
24 adopted legally or in accordance with custom, or for whom
25 care was given by the public official such that there exists

1 a relationship in the nature of parent and child. The term
2 shall also include a spouse of any person referred to in this
3 definition and their children.

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

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

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

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

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

20 "Section 907. Value of property.

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

24 (a) its market value; or

25 (b) where an innocent third party holds an interest in

1 the property:

2 (i) the market value of the property, less the
3 interest of the innocent third party; and

4 (ii) less the amount required to discharge any
5 valid liens or encumbrances.

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

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

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

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

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

23

24

25

April 11th, 2001

1
2
3
4
5
6
7

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