A BILL FOR AN ACT

To further amend title 11 of the Code of the Federated States of Micronesia (Annotated), as amended, by creating a new chapter 15 thereof, entitled: “Electronic and computer related offenses”; inserting new sections 1501 through 1533 in the newly created chapter 15 to incorporate statutory provisions concerning the so-called cybercrimes; defining new national crimes considered as cybercrimes, including the following crimes: Illegal Access, Illegal Remaining, Illegal Interception, Illegal Interference, Data Espionage, Illegal System Interference, Illegal Devices, Computer-Related Forgery, Computer-Related Fraud, Child Pornography, Pornography, Identity-Related Crimes, Spam, Disclosure of Details of an Investigation, Failure to Permit Assistance, Harassment Utilizing Means of Electronic Communication; prescribing the corresponding penalties for violations of these national crimes; establishing jurisdiction over cybercrimes; permitting the Supreme Court of the Federated States of Micronesia to issue rules governing the admissibility of electronic evidence; mandating the Secretary of Justice to issue appropriate rules to implement this act and to protect civil rights; and for other purposes.

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

1 Section 1. Title 11 of the Code of the Federated States of Micronesia (Annotated), as amended, is hereby further amended by creating a new chapter 15 entitled, “Electronic and computer related offenses”.

2 Section 2. Title 11 of the Code of the Federated States of Micronesia (Annotated), as amended, is hereby further amended by inserting section 1501 to chapter 15 to read as follows:

“Section 1501. Definition.

(1) “Access provider” means any natural or legal person providing an electronic data transmission service by transmitting information provided by or to
a user of the service in a communication network or
providing access to a communication network;

(2) “Caching [service] provider” means any natural
or legal person providing an electronic data
transmission service by automatic, intermediate and
temporary storing information, performed for the sole
purpose of making more efficient the information’s
onward transmission to other users of the service
upon their request;

(3) “Child” shall mean any person under the age of
eighteen (18) years;

(4) “Child pornography” means pornographic
material that depicts, presents or represents a child
engaged in sexually explicit conduct. This includes,
but is not limited to, any audio, visual or text
pornographic material.

(5) “Critical infrastructure” means electronic
systems, devices, networks, computer programs,
electronic data, so vital to the country that the
incapacity or destruction of or interference with
such systems and assets would have a debilitating
impact on security, national or economic security,
national public health and safety, or any combination
of those matters;

(6) “Department” means the Department of
Transportation, Communications and Infrastructure;

(7) “Device” includes but is not limited to:

(a) components of electronic systems such as computer, graphic cards, memory, chips;

(b) storage components such as hard drives, memory cards, compact discs, tapes;

(c) input devices such as keyboards, mouse, track pad, scanner, digital cameras; and

(d) output devices such as printer, screens;

(8) “Electronic system” (or computer system) means a device or a group of inter-connected or related devices, including the internet, one or more of which, pursuant to a program, performs automatic processing of data or any other function;

(9) “Electronic data” (or computer data) means any representation of facts, concepts, information (being either texts, sounds or images) machine-readable code or instructions, in a form suitable for processing in an electronic system, including a program suitable to cause an electronic system to perform a function;

(10) “Electronic data storage medium” (or computer data storage media) means any article or material (for example, a disk) from which information is capable of being reproduced, with or without the aid of any other article or device.
(11) “Hinder” in relation to an electronic system
includes but is not limited to:

(a) cutting the electricity supply to an
electronic system; and

(b) causing electromagnetic interference to
an electronic system; and

(c) corrupting an electronic system by any
means; and

(d) inputting, transmitting, damaging,
deleting, deteriorating, altering or suppressing
electronic data;

(12) “Hosting provider” means any natural or legal
person providing an electronic data transmission
service by storing of information provided by a user
of the service;

(13) “Hyperlink” means characteristic or property
of an element such as symbol, word, phrase, sentence,
or image that contains information about another
source and points to and causes to display another
document when executed;

(14) “Interception” includes but is not limited to
the acquiring, viewing and capturing of any
electronic data communication whether by wire,
wireless, electronic, optical, magnetic, oral, or
other means, during transmission through the use of
any technical device;

(15) “Law enforcement officer” means the Secretary of Justice, a prosecutor, the chief of national police, or any police officer of the national government of the Federated States of Micronesia;

(16) “Multiple electronic messages” mean a mail message including E-Mail and instant messaging sent to more than one thousand recipients; [consider: MASS EM]

(17) “Remote forensic tool” means an investigative tool such as software installed on or applied with regard to an electronic system and used to perform [remote] tasks that include but are not limited to keystroke logging or transmission of an IP-address; [type of ...to perform remote task [consider: digital forensic tool]

(18) “Seize” includes:

(a) activating any onsite electronic system and electronic data storage media;

(b) making and retaining a copy of electronic data, including by using onsite equipment;

(c) maintaining the integrity of the relevant stored electronic data;

(d) rendering inaccessible, or removing, electronic data in the accessed electronic system;
(e) taking a printout of output of electronic data; or

(f) seizing or similarly securing an electronic system or part of it or an electronic data storage medium;

(19) “Internet service provider” means a natural or legal person that provides to users with services as access provider, hosting provider, caching provider, hyperlink provider, search engine provider mentioned in subsection (2) and (3) of section 1528 and sections 1529, 1530 and 1531 hereof;

(20) “Traffic data” means electronic data that:

(a) relates to a communication by means of an electronic system; and

(b) is generated by an electronic system that is part of the chain of communication; and

(c) shows the communication’s origin, destination, route, time, date, size, duration or the type of underlying services;

(21) “Thing” includes but not limited to:

(a) an electronic system or part of an electronic system;

(b) another electronic system, if:

(1) electronic data from that electronic system is available to the first electronic system
being searched; and

(2) there are reasonable grounds for
believing that the electronic data sought is stored
in the other electronic system; and

(c) an electronic data storage medium.

(22) “Utilize” includes:

(a) developing of a remote forensic tool;
(b) adopting of a remote forensic tool; and
(c) purchasing of a remote forensic tool.”

Section 3. Title 11 of the Code of the Federated States of
Micronesia (Annotated), as amended, is hereby further amended by
inserting section 1502 to chapter 15 to read as follows:

“Section 1502. Illegal access.

(1) A person who intentionally, without lawful
excuse or justification or in excess of a lawful
excuse or justification, accesses the whole or any
part of an electronic system commits an offense
punishable on conviction by imprisonment for a period
not exceeding five years or a fine not exceeding
$5,000, or both.

(2) Whenever the offense in subsection (1) of this
section is committed by accessing a protected
computer, the applicable penalty upon conviction is
imprisonment for a period not exceeding ten years, or
a fine not exceeding $10,000, or both.”
Section 4. Title 11 of the Code of the Federated States of Micronesia (Annotated), as amended, is hereby further amended by inserting section 1503 to chapter 15 to read as follows:

"Section 1503. Illegal remaining.

(1) A person who intentionally, without lawful excuse or justification or in excess of a lawful excuse or justification, remains logged in an electronic system or part of an electronic system or continues to use an electronic system commits an offense punishable, on conviction, by imprisonment for a period not exceeding five years, or a fine not exceeding $5,000, or both."

Section 5. Title 11 of the Code of the Federated States of Micronesia (Annotated), as amended, is hereby further amended by inserting section 1504 to chapter 15 to read as follows:

"Section 1504. Illegal interception.

(1) A person who, intentionally without lawful excuse or justification or in excess of a lawful excuse or justification, intercepts by technical means:

(a) any non-public transmission to, from or within an electronic system; or

(b) electromagnetic emissions from an electronic system,

commits an offense punishable, on conviction, by
imprisonment for a period not exceeding five years,

or a fine not exceeding $5,000, or both.”

Section 6. Title 11 of the Code of the Federated States of Micronesia (Annotated), as amended, is hereby further amended by inserting section 1505 to chapter 15 to read as follows:

“Section 1505. Illegal Interference.

(1) A person who, intentionally without lawful excuse or justification or in excess of a lawful excuse or justification, does any of the following acts:

(a) damages or deteriorates electronic data;

or

(b) deletes electronic data; or

(c) alters electronic data; or

(d) renders electronic data meaningless,

useless or ineffective; or

(e) obstructs, interrupts or interferes with the lawful use of electronic data; or

(f) obstructs, interrupts or interferes with any person in the lawful use of electronic data; or

(g) denies access to electronic data to any person authorized to access it;

commits an offence punishable, on conviction, by imprisonment for a period not exceeding five years,

or a fine not exceeding $5,000, or both.”
Section 7. Title 11 of the Code of the Federated States of Micronesia (Annotated), as amended, is hereby further amended by inserting section 1506 to chapter 15 to read as follows:

"Section 1506. Data Espionage.

(1) A person who, intentionally without lawful excuse or justification or in excess of a lawful excuse or justification obtains, for himself or for another, electronic data which are not meant for him, and which are specially protected against unauthorized access, commits an offence punishable, on conviction, by imprisonment for a period not exceeding five years, or a fine not exceeding $5,000, or both."

Section 8. Title 11 of the Code of the Federated States of Micronesia (Annotated), as amended, is hereby further amended by inserting section 1507 to chapter 15 to read as follows:

"Section 1507. Illegal System Interference.

(1) A person who intentionally, without lawful excuse or justification or in excess of a lawful excuse or justification:

   (a) hinders or interferes with the functioning of an electronic system; or

   (b) hinders or interferes with a person who is lawfully using or operating an electronic system; commits an offense punishable, on conviction, by
imprisonment for a period not exceeding two years, or
a fine not exceeding $2,000, or both.

(2) A person who intentionally, without lawful
excuse or justification or in excess of a lawful
excuse or justification hinders or interferes with an
electronic system that is exclusively for the use of
critical infrastructure operations, or in the case in
which such is not exclusively for the use of critical
infrastructure operations, but it is used in critical
infrastructure operations and such conduct affects
that use or impacts the operations of critical
infrastructure the punishment shall be imprisonment
for a period not exceeding five years, or a fine not
exceeding $5,000, or both.”

Section 1508. Illegal Devices.

(1) A person commits an offense if the person:

(a) intentionally, without lawful excuse or
justification or in excess of a lawful excuse or
justification, produces, sells, procures for use,
imports, exports, distributes or otherwise makes
available:

(1) a device defined in subsection (7)
section 1501, including an electronic program that is
designed or adapted for the purpose of committing an
offense under this chapter; or

(2) a password, access code or similar
data by which the whole or any part of an electronic
system is capable of being accessed;
that is contained in a schedule published by the
Department with the intent that it be used by any
person for the purpose of committing an offense
defined by other provisions of this chapter; or

(b) has an item mentioned in subparagraph (1)
or (2) of paragraph (a) of subsection (1) of this
section in his or her possession with the intent that
it be used by any person including himself or herself
for the purpose of committing an offense defined
under this chapter commits an offense punishable, on
conviction, by imprisonment for a period not
exceeding two years, or a fine not exceeding $2,000,
or both.

(2) This provision shall not be interpreted as
imposing criminal liability where the production,
sale, procurement for use, import, distribution or
otherwise making available or possession referred to
in paragraph 1 is not for the purpose of committing
an offense under this chapter, such as for the
authorized testing or protection of an electronic
system.

(3) The Department is authorized to edit or update
the schedule referred to in subsection (1).”

Section 10. Title 11 of the Code of the Federated States
of Micronesia (Annotated), as amended, is hereby further amended
by inserting section 1509 to chapter 15 to read as follows:

“Section 1509. Computer-Related Forgery.

(1) A person who intentionally, without lawful
excuse or justification or in excess of a lawful
excuse or justification inputs, alters, deletes, or
suppresses electronic data, resulting in inauthentic
data with the intent that it be considered or acted
upon for legal purposes as if it were authentic,
regardless whether or not the data is directly
readable and intelligible commits an offense
punishable, on conviction, by imprisonment for a
period not exceeding two years, or a fine not
exceeding $2,000, or both.

(2) If the abovementioned offense is committed by
sending out multiple electronic messages from or
through electronic systems, the penalty shall be
imprisonment for a period not exceeding three years,
or a fine not exceeding $3,000, or both.”

Section 11. Title 11 of the Code of the Federated States of
Micronesia (Annotated), as amended, is hereby further amended by inserting section 1510 to chapter 15 to read as follows:

"Section 1510. Computer-Related Fraud.

(1) A person who intentionally, without lawful excuse or justification or in excess of a lawful excuse or justification causes a loss of property to another person by:

(a) any input, alteration, deletion or suppression of electronic data;

(b) any interference with the functioning of an electronic system,

(c) with fraudulent or dishonest intent of procuring, without right, an economic benefit for oneself or for another person;

commits an offense punishable, on conviction, by imprisonment for a period not exceeding two years, or a fine not exceeding $2,000, or both."

Section 12. Title 11 of the Code of the Federated States of Micronesia (Annotated), as amended, is hereby further amended by inserting section 1511 to chapter 15 to read as follows:

"Section 1511. Child Pornography.

(1) A person who intentionally, without lawful excuse or justification:

(a) produces child pornography for the purpose of its distribution through an electronic
(b) offers or makes available to another child pornography through an electronic system;
(c) distributes or transmits child pornography through an electronic system;
(d) procures or obtain child pornography through an electronic system for oneself or for another person; or
(e) possesses child pornography in an electronic system or on a data storage medium; and

(2) knowingly obtains access, through information and communication technologies, to child pornography, commits an offense punishable, on conviction, by imprisonment for a period not exceeding two years, or a fine not exceeding $2,000, or both.

(3) It is a defense to a charge of an offense under paragraph (a) to (e) of clause (1) if the person establishes that the child pornography was a bona fide law enforcement purpose. If child pornography was stored for such purpose, the authorized persons need to ensure that it is deleted as soon as it is no longer required or needed for law enforcement purposes.”

Section 13. Title 11 of the Code of the Federated States of Micronesia (Annotated), as amended, is hereby further amended
by inserting section 1512 to chapter 15 to read as follows:

“Section 1512. Pornography.

(1) A person who intentionally, without lawful excuse or justification:

   (a) produces pornography for the purpose of its distribution through an electronic system;
   
   (b) offers or makes available to another pornography through an electronic system; or
   
   (c) distributes or transmits pornography through an electronic system, commits an offense punishable, on conviction, by imprisonment for a period not exceeding two years, or a fine not exceeding $2,000, or both.”

Section 14. Title 11 of the Code of the Federated States of Micronesia (Annotated), as amended, is hereby further amended by inserting section 1513 to chapter 15 to read as follows:

“Section 1513. Identity-Related Crimes.

(1) A person who, intentionally without lawful excuse or justification or in excess of a lawful excuse or justification by using an electronic system in any stage of the offense, intentionally transfers, possesses, or uses, without lawful excuse or justification, a means of identification of another person with the intent to commit, or to aid or abet, or in connection with, any unlawful activity that
constitutes a crime, commits an offense punishable, on conviction, by imprisonment for a period not exceeding two years, or a fine not exceeding $2,000, or both."

Section 15. Title 11 of the Code of the Federated States of Micronesia (Annotated), as amended, is hereby further amended by inserting section 1514 to chapter 15 to read as follows:

"Section 1514. Spam.

(1) A person who, intentionally without lawful excuse or justification:

(a) initiates the transmission of multiple electronic messages from or through such electronic system with the intent to deceive or mislead users; or

(b) uses a protected electronic system to relay or retransmit multiple electronic messages, with the intent to deceive or mislead users, or any electronic mail or Internet service provider, as to the origin of such messages, or

(c) materially falsifies header information in multiple electronic messages and intentionally initiates the transmission of such messages, commits an offense punishable, on conviction, by imprisonment for a period not exceeding 1 year, or a fine not exceeding $1,000, or both.
Section 16. Title 11 of the Code of the Federated States of Micronesia (Annotated), as amended, is hereby further amended by inserting section 1515 to chapter 15 to read as follows:

"Section 1515. Disclosure of Details of a criminal investigation.

(1) An Internet service provider who receives a court order related to a criminal investigation intentionally without lawful excuse or justification or in excess of a lawful excuse or justification discloses:

(a) the fact that an order has been made; or
(b) anything done under the order; or
(c) any data collected or recorded under the order, commits an offense punishable, on conviction, by imprisonment for a period not exceeding two years, or a fine not exceeding $2,000, or both."

Section 17. Title 11 of the Code of the Federated States of Micronesia (Annotated), as amended, is hereby further amended by inserting section 1516 to chapter 15 to read as follows:

"Section 1516. Failure to Permit Assistance.

(1) A person other than the suspect who intentionally fails without lawful excuse or justification or in excess of a lawful excuse or justification to permit or assist a person based on an order referred to in sections 1523, 1524, 1525 and
1526 commits an offense punishable, on conviction, by
imprisonment for a period not exceeding 1 year, or a
fine not exceeding $1,000, or both.”

Section 18. Title 11 of the Code of the Federated States
of Micronesia (Annotated), as amended, is hereby further amended
by inserting section 1517 to chapter 15 to read as follows:

“Section 1517. Harassment Utilizing Means Of Electronic
Communication.

(1) A person, who initiates any electronic
communication, with the intent to coerce, intimidate,
harass, or cause substantial emotional distress to a
person, using an electronic system to support severe,
repeated, and hostile behavior, commits an offense
punishable, on conviction, by imprisonment for a
period not exceeding 1 year, or a fine not exceeding
$1,000, or both.

(2) If the act of coercion, intimidation or
harassment consists of threats of exposing
pornographic material, then the penalty on conviction
is by imprisonment for a period not exceeding five
years, or a fine not exceeding $5,000, or both,”

Section 19. Title 11 of the Code of the Federated States
of Micronesia (Annotated), as amended, is hereby further amended
by inserting section 1518 to chapter 15 to read as follows:

“Section 1518. Jurisdiction.
This Act applies to an act done or an omission made:

(a) in the territory of the Federated States of Micronesia; or

(b) on a ship or aircraft registered in the Federated States of Micronesia; or

(c) by a national or citizen of the Federated States of Micronesia outside the jurisdiction of any country; or

(d) by a national of the Federated States of Micronesia outside the territory of the Federated States of Micronesia, if the person’s conduct would also constitute an offense under a law of the country where the offense was committed.”

Section 20. Title 11 of the Code of the Federated States of Micronesia (Annotated), as amended, is hereby further amended by inserting section 1519 to chapter 15 to read as follows:

“Section 1519. Electronic Evidence.

(1) In proceedings for an offense against a law of the Federated States of Micronesia, the fact that evidence has been generated from an electronic system does not by itself prevent that evidence from being admitted in any legal proceeding.

(2) The Supreme Court of the Federated States of Micronesia may promulgate appropriate rules of
evidence governing the admissibility of electronic evidence.”

Section 21. Title 11 of the Code of the Federated States of Micronesia (Annotated), as amended, is hereby further amended by inserting section 1520 to chapter 15 to read as follows:

"Section 1520. Search and Seizure.

(1) If a Supreme Court judge is satisfied on the basis of affidavit that there are reasonable grounds to believe that there may be in a place a thing or electronic data:

(a) that may be material as evidence in proving an offense; or

(b) that has been acquired by a person as a result of an offense, a warrant may be issued authorizing a law enforcement officer, with such assistance as may be necessary, to enter the place to search and seize the thing or electronic data including search or similarly access:

(1) an electronic system or part of it and electronic data stored therein; and

(2) an electronic-data storage medium in which electronic data may be stored in the territory of the country.

(2) Any person who makes a search or seizure under this section, shall at the time or as soon as
practicable:

(a) make a list of what has been seized, with the date and time of seizure; and

(b) provide such list to the occupier of the premises or the person in control of such electronic devices.

(3) Subject to subsection (4) of this section on request, any law enforcement officer or another authorized person shall:

(a) permit a person who had the custody or control of the electronic devices, or someone acting on their behalf to access and copy electronic data on the system; or

(b) give the person a copy of the electronic data.

(4) The law enforcement officer or another authorized person may refuse to give access or provide copies if he or she has reasonable grounds for believing that giving the access, or providing the copies may

(a) constitute a criminal offense; or

(b) prejudice:

(1) the investigation in connection with which the search was carried out;

(2) another ongoing investigation; or
(3) any criminal proceedings that are pending or that may be brought in relation to any of those investigations.

(5) If law enforcement officer that is undertaking a search based on subsection (1) of this section has grounds to believe that the data sought is stored in another electronic system or part of it in its territory, and such data is lawfully accessible from or available to the initial system, he or she shall be able to expeditiously extend the search or similar accessing to the other system.

(6) Law enforcement officer that is undertaking a search is empowered to seize or similarly secure electronic data accessed according to paragraph (a) and (b) of subsection (2).”

Section 22. Title 11 of the Code of the Federated States of Micronesia (Annotated), as amended, is hereby further amended by inserting section 1521 to chapter 15 to read as follows:

“Section 1521. Assistance.

(1) A person who is not a suspect of a crime but is in possession or control of an electronic device or electronic data that is the subject of a search under section 1 shall permit, and assist if required, the law enforcement officer making the search to:

(a) access and use an electronic device or
Section 23. Title 11 of the Code of the Federated States of Micronesia (Annotated), as amended, is hereby further amended by inserting section 1522 to chapter 15 to read as follows:

"Section 1522. Production Order.

(1) Where any justice of the Supreme Court on application by any law enforcement officer that specified electronic data or a printout or other information is reasonably required for the purpose of a criminal investigation or criminal proceedings, may order:

(a) a person in control of an electronic device or network of electronic devices to produce specified electronic data or printout of such information; and

(b) an Internet service provider to produce information about persons who subscribe to or use their services."

Section 24. Title 11 of the Code of the Federated States of Micronesia (Annotated), as amended, is hereby further amended by inserting section 1523 to chapter 15 to read as follows:
“Section 1523. Expedited Preservation.

(1) Where any law enforcement officer is satisfied that:

(a) electronic data stored in an electronic device is reasonably required for the purpose of a criminal investigation; and

(b) there is a risk that the data may be destroyed or rendered inaccessible;

(c) the law enforcement officer may issue an order, by written notice given to a person in control of the electronic device, requiring the person to ensure that the data specified in the order be preserved for a period of up to 7 days as specified in the notice.

The judge may upon application authorize an extension not exceeding 14 days.”

Section 25. Title 11 of the Code of the Federated States of Micronesia (Annotated), as amended, is hereby further amended by inserting section 1524 to chapter 15 to read as follows:

“Section 1524. Partial Disclosure Of Traffic Data.

(1) Where a judge is satisfied on the basis of an application by any law enforcement officer that specified data stored in an electronic device or system of electronic devices is required for the purpose of a criminal investigation or criminal proceedings, the judge may order such person to disclose sufficient
traffic data
(a) about a specified communication to identify:
(1) the service providers; and
(2) the path through which the
communication was transmitted.”

Section 26. Title 11 of the Code of the Federated States
of Micronesia (Annotated), as amended, is hereby further amended
by inserting section 1525 to chapter 15 to read as follows:

"Section 1525. Collection Of Traffic Data.

(1) Where any judge is satisfied on the basis of
affidavit that traffic data associated with a specified
communication is reasonably required for the purposes of
a criminal investigation, a law enforcement officer may
issue an order, by written notice given to a person in
control of such data, requiring that person to:

(a) collect or record traffic data associated
with a specified communication during a specified
period; and

(b) permit and assist law enforcement officer to
collect or record that data.

(2) Where a justice of the Supreme Court is satisfied
on the evidence that there are reasonable grounds to
suspect that traffic data is reasonably required for the
purposes of a criminal investigation, he or she may
authorize any law enforcement officer to collect or
record traffic data associated with a specified communication during a specified period through application of technical means."

Section 27. Title 11 of the Code of the Federated States of Micronesia (Annotated), as amended, is hereby further amended by inserting section 1526 to chapter 15 to read as follows:

"Section 1526. Interception Of Content Data.

(1) Where any justice of the Supreme Court is satisfied on the basis of affidavit that there are reasonable grounds believe that the content of electronic communications is reasonably required for the purposes of a criminal investigation, the justice may:

(a) order an Internet service provider or mobile service provider whose service is available in the Federated States of Micronesia through application of technical means to collect or record, to permit or assist competent authorities with the collection or recording of content data associated with specified communications transmitted by means of a electronic system; or

(b) authorize a law enforcement officer to collect or record that data through application of technical means."

Section 28. Title 11 of the Code of the Federated States of Micronesia (Annotated), as amended, is hereby further amended
by inserting section 1527 to chapter 15 to read as follows:

"Section 1527. Forensic Software.

(1) If a justice of the Supreme Court is satisfied on the basis of affidavit that an investigation concerning a possible offense listed in subsection (8) of this section necessitates the use of a remote forensic software, he or she may issue an order authorizing the use of remote forensic software in connection with an investigation and install it on the suspect’s electronic system in order to collect the relevant evidence. An order issued under this subsection requires the filing of an application containing the following information:

(a) suspect of the offense, if possible with name and address;
(b) description of the targeted electronic system;
(c) description of the intended measure, extent and duration of the utilization; and
(d) reasons for the necessity of the utilization.

(2) During an investigation, any modifications to the electronic system of the suspect shall be limited only to what is required by or essential to a criminal investigation. Investigators shall ensure that any changes could be undone after the end of the
investigation. During the investigation it is necessary
to log:

(a) the technical means used and time and date
of the application;

(b) the identification of the electronic system
and details of the modifications undertaken within the
investigation; and

(c) any information obtained.

(3) Information obtained by the use of a remote
forensic software need to be protected against any
modification, unauthorized deletion and unauthorized
access.

(4) The duration of authorization in subsection (1)
is limited to 3 months. If the conditions of the
authorization are no longer met, the actions taken are
to stop immediately.

(5) The authorization to install the software
includes remotely accessing the suspects electronic
system.

(6) If the installation process requires physical
access to a place the requirements of section 26 need to
be fulfilled.

(7) If necessary, a police officer may pursuant to
the order of court granted in (1) above requests that
the court order an Internet service provider to support
the installation process.

(8) The offenses subject to the application of subsection (1) are as follows:

(a) Offenses related to child pornography
(b) Offences related to bribery and corruption
(c) Offenses related to banking and insurance matters
(d) Offenses related to money laundering and terrorist financing.”

Section 29. Title 11 of the Code of the Federated States of Micronesia (Annotated), as amended, is hereby further amended by inserting section 1528 to chapter 15 to read as follows:

“Section 1528. Liability.

(1) No Monitoring Obligation. Internet service providers do not have a general obligation to monitor the information which they transmit or store on behalf of another, nor do they have a general obligation to actively seek facts or circumstances indicating illegal activity to avoid criminal liability. This provision does not affect the possibility for a court or administrative authority to require an Internet service provider to terminate or prevent an infringement based on any law enacted by Congress within the Federated States of Micronesia.

(2) Access Provider. An access provider is not
criminally liable for providing access and transmitting
information on condition that the provider:

(a) does not initiate the transmission;
(b) does not select the receiver of the
transmission; or
(c) does not select or modify the information
contained in the transmission.

(d) The acts of transmission and of provision of
access referred to in subsection 2 include the
automatic, intermediate and transient storage of the
information transmitted in so far as this takes place
for the sole purpose of carrying out the transmission in
the communication network, and provided that the
information is not stored for any period longer than is
reasonably necessary for the transmission.

(3) Hosting Provider. A hosting provider is not
criminally liable for the information stored at the
request of a user of the service, on condition that:
(a) The hosting provider expeditiously removes
or disables access to the information after receiving an
order from any public authority or court of law to
remove specific illegal information stored; or
(b) The hosting provider upon obtaining
knowledge or awareness about specific illegal
information stored by other ways than an order from a
public authority, expeditiously informs a public
authority to enable them to evaluate the nature of the
information and if necessary issue an order to remove
the content.

(c) This subsection shall not apply when the
user of the service is acting under the authority or the
control of the hosting provider.

(d) If the hosting provider is removing the
content after receiving an order pursuant to subsection
1, it is exempted from contractual obligations with its
customer to ensure the availability of the service.”

Section 30. Title 11 of the Code of the Federated States
of Micronesia (Annotated), as amended, is hereby further amended
by inserting section 1529 to chapter 15 to read as follows

“Section 1529. Caching provider.

(1) A caching provider is not criminally liable for
the automatic, intermediate and temporary storage of
that information, performed for the sole purpose of
making more efficient the information's onward
transmission to other users of the service upon their
request, on condition that:

(a) The caching provider does not modify the
information;

(b) the caching provider complies with
conditions of access to the information;
(c) the caching provider complies with rules regarding the updating of the information, specified in a manner widely recognized and used by industry;

(d) the caching provider does not interfere with the lawful use of technology, widely recognized and used by industry, to obtain data on the use of the information; and

(e) the caching provider acts expeditiously to remove or to disable access to the information it has stored upon obtaining actual knowledge of the fact that the information at the initial source of the transmission has been removed from the network, or access to it has been disabled, or that a court or an administrative authority has ordered such removal or disablement."

Section 31. Title 11 of the Code of the Federated States of Micronesia (Annotated), as amended, is hereby further amended by inserting section 1530 to chapter 15 to read as follows:

"Section 1530. Hyperlinks Provider.

(1) An internet service provider who enables the access to information provided by third person by providing an electronic hyperlink is not liable for the information if—

(a) The internet service provider expeditiously removes or disables access to the information after
receiving an order from any public authority or court to
remove the link; and

(b) The internet service provider, upon
obtaining knowledge or awareness about specific illegal
information stored by other ways than an order from a
public authority, expeditiously informs a public
authority to enable them to evaluate the nature of the
information and if necessary issue an order to remove
the content.”

Section 32. Title 11 of the Code of the Federated States
of Micronesia (Annotated), as amended, is hereby further amended
by inserting section 1531 to chapter 15 to read as follows:

"Section 1531. Search Engine Provider.

(1) A provider who makes or operates a search engine
that either automatically or based on entries by others,
creates and index of Internet-related content or makes
available electronic tools to search for information
provided by third party is not liable for search results
on conditions that the provider:

(a) does not initiate the transmission; and

(b) does not select the receiver of the
transmission; and

(c) does not select or modify the information
contained in the transmission.”

Section 33. Title 11 of the Code of the Federated States
of Micronesia (Annotated), as amended, is hereby further amended by inserting section 1532 to chapter 15 to read as follows:

"Section 1532. Registration of Users.

Internet service provider is required to register users prior to the use of its service."

Section 34. Title 11 of the Code of the Federated States of Micronesia (Annotated), as amended, is hereby further amended by inserting section 1533 to chapter 15 to read as follows:

"Section 1533. Duty of the Secretary of Justice.

The Secretary of Justice of the Federated States of Micronesia shall issue appropriate guidelines, protocols and procedures to be observed by law enforcement officers in implementing this chapter to ensure not only the effective implementation of this law but also to ensure the protection of civil rights."

Section 35. 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: 9/7/21

Introduced by: /s/ Florencio S. Harper
Florencio S. Harper (by request)