A BILL FOR AN ACT

To further amend title 24 of the Code of the Federated States of Micronesia (Annotated), as amended, by amending section 801 thereof, to make any fishing vessel and property thereon used in or connected with a commission of a crime within the exclusive economic zone of FSM to be subject to forfeiture and for other purposes.

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

Section 1. Section 801 of Title 24 of the Code of the Federated States of Micronesia, is hereby amended to read as follows:

"Section 801. Forfeiture of property.

(1) Any fishing vessel, including its fishing gear, furniture, appurtenances, stores and cargo used in or connected with the commission of any act prohibited by this subtitle, with the territorial sea, [or] internal waters or the exclusive economic zone of the Federated States of Micronesia shall be subject to forfeiture to the Government of the Federated States of Micronesia pursuant to a civil proceeding under this section.

(2) Any fishing vessel including its fishing gear, furniture, appurtenances or stores used in or connected with the commission of any act prohibited by this subtitle, within the internal waters, territorial seas of the exclusive economic zone [outside the territorial..."
(3) Any vehicle or aircraft, all or any part of any fish or fish product and the proceeds of the sale of any fishing seized in connection with a violation of this subtitle, shall be subject to forfeiture to the Government of the Federated States of Micronesia pursuant to a civil proceeding under this section.

(4) The Supreme Court of the Federated State of Micronesia shall have jurisdiction, upon application by the Secretary of the Department of Justice on behalf of the Federated State of Micronesia, to order any forfeiture authorized under subsection (1) of this section.

(5) If a judgement is entered for the Government of the Federated States Micronesia in a civil forfeiture proceeding under this section, the Secretary of the Department of Justice shall seize any property or other interested declared forfeited to the Government of the Federated States of Micronesia, which has not previously been seized pursuant to this subtitle.

(6) The forfeited item or items shall be sold and the proceeds deposited into the General Fund of the Federated States of Micronesia and distributed in accordance with subsection (7) of this section.
(7) Fifty percent of the revenues from fines and forfeitures shall be distributed to an FSM State(s) which may be affected by the situation which has given rise to the fine and/or forfeiture.

(8) Pending completion of the civil forfeiture proceeding, the item or items subject to forfeiture, or any part thereof, may be released at the discretion of the Court upon deposit with the Court of a satisfactory bond, surety or other security at least equal to the fair market value of the seized property. Exoneration of such bond, surety or other security shall be conditional upon return of the released property to the appropriate court upon order, without any impairment of its value, or by paying the monetary value of the released property to the General Fund of the Federated States of Micronesia upon order of the Court. Such bond, surety or other security shall be forfeited in the event that any condition is breached as shall be determined by the Court, and judgment shall be recoverable by the Court against the principal of any surety for any such breach.

(9) In the event there is an appeal from an order for forfeiture, the Court may continue any such bond, surety or other security deposited in accordance with subsection (8) of this section during the pendency of
the appeal and any retrial or rehearing on remand or may require additional security to be deposited with the Court.”

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

Date: 9/24/21  Introduced by: /s/ Florencio S. Harper
Florencio S. Harper  (by request)