A BILL FOR AN ACT

To provide for paroles and their revocation, and for other purposes.

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

1 Section 1. Application. The provisions of this act shall be
2 applicable to all persons serving a sentence of incarceration for any
3 National offense, or for any offense for which the person incarcerated
4 could have been sentenced by the court to a term of more than 3 years.
5 This act provides the exclusive mechanism by which parole may be granted
6 in the Federated States of Micronesia.

7 Section 2. Authority in President. Any person to whom the pro-
8 visions of this act apply may be paroled by the President of the Federated
9 States of Micronesia as provided in this act upon such terms and conditions
10 as he may deem best. Any person so paroled may have his parole revoked
11 by the Trial Division of the Supreme Court of the Federated States of
12 Micronesia as provided in this act. Before the President acts upon
13 applications for parole, he shall receive the recommendation of the
14 applicable board of paroles.

15 Section 3. Board of paroles. There is hereby established in each
16 State in the Federated States of Micronesia a State board of paroles
17 (hereinafter the "board") composed of five members appointed by the
18 President of the Federated States of Micronesia. The members of each
19 board shall annually select a chairman from among themselves.

20 Section 4. Qualifications. Persons appointed to the board shall be
21 residents of the respective State, shall not be related by lineage or by
22 clan, and shall otherwise have the same qualifications as Members of
23 Congress.

24 Section 5. Compensation. Members shall receive no compensation
25 for serving on the board, but shall be reimbursed for reasonable
expenses as approved by the President incurred in the performance of
their duties.

Section 6. Terms. Members of the boards of paroles shall serve a
term of one year from the date of appointment and may thereafter serve
at the discretion of the President.

Section 7. Meetings. The board shall meet at such times as may
be necessary for a full, complete, and prompt review of all applications
for parole. Three members of the board shall constitute a quorum.

Section 8. Disqualification.

(1) Any member of the board may withdraw from consideration in
any case in which the member has a conflict, such as:

(a) Close family relationship with the petitioner for
parole, or any victim of the petitioner's criminal conduct;

(b) Financial relationship with the petitioner or victim;

(c) Established close friendship with the petitioner or
victim; or

(d) Existence of any other factor which would preclude
such member from acting fairly or impartially upon the particular petition
being considered.

(2) Whenever a particular member of the board withdraws or for
any other reason is not able to perform his duties, the President shall
be informed in writing by the member. The President shall then assign a
member of another State board to replace any disqualified member, or may
appoint an ad hoc member to serve during the disqualification, who other-
wise meets the qualifications listed in section 4.
Section 9. **Duties of the board.** The duty of each State board of parole is to receive petitions for parole for persons incarcerated in the respective State and to conduct hearings and inquiries in order to make recommendations regarding the petition to the President.

Section 10. **Parole eligibility.** Any prisoner to whom this act applies shall be eligible for parole upon completion of one third of the term of actual imprisonment, unless convicted of a crime and sentenced under a statute which precludes parole. Unless otherwise limited by specific statutory provision, a prisoner serving a life sentence is eligible for parole after serving 15 years of the sentence.

Section 11. **Application.**

1. Not more than 90 days prior to the anticipated eligibility date, a prisoner may petition the President for parole. The President shall, within 12 days after receipt of the petition, forward the petition to the applicable board and notify the following of the petition:
   1. The Office of the Attorney General for the Federated States of Micronesia;
   2. The office of the attorney general for any State concerned;
   3. The chief of police for any State concerned;
   4. The victim or his family; and
   5. Any other person whose comments the President feels would be of assistance to the board.

2. Within 7 days of receipt of the petition, the chairman shall write to the President acknowledging receipt of the petition and...
informing the President of the date of the parole hearing. If for any
reason the hearing date is rescheduled, the President will be informed in
writing of the change by the chairman.

Section 12. Contents of parole petition. The petition shall
indicate the prisoner's parole plan, setting forth the manner of life
the prisoner intends to lead if released on parole, including such
specific information as to where and with whom the prisoner will reside
and what occupation or employment will be undertaken. The petition
shall state the sentence imposed, the date the minimum term was or will
be completed, and whether parole has ever been denied or revoked during
the present sentence. The petition may also include other documents or
affidavits indicating the willingness of responsible members of the
petitioner's family or community to accept supervision of the petitioner
or provide gainful employment.

Section 13. Hearing. Upon receipt of the petition, the board shall
hold a hearing thereon. The board shall attempt to hold such hearing
within 60 days. Those people specified in subsection (1) of section 11
and any other people selected by the board shall receive notice of the
time and place of the hearing. The hearing shall be conducted in an
informal manner. The prisoner shall be entitled to make a presentation
to the board and may be allowed by the board to appear personally. The
prisoner may choose to be assisted by counsel.


(1) Whenever the board considers the release of a prisoner on
parole, the board is authorized to recommend release if a majority of
the entire board is of the opinion that:

(a) The release is compatible with public safety and security;

(b) The release at that time would not deprecate the seriousness of his crime or promote disrespect of the law;

(c) The release would not have a substantially adverse effect on institutional discipline; and

(d) The crime for which the prisoner stands convicted was not committed at a time when the prisoner was released on a previous parole.

(2) In making its recommendation regarding a prisoner's release on parole, it shall be the policy of the board to take into account each of the following factors:

(a) The ability and willingness of responsible members of the prisoner's family, clan, or community to supervise the petitioner's activities if parole is granted and to assure that the petitioner is gainfully occupied;

(b) The adequacy of the prisoner's parole plan;

(c) The prisoner's personality, including his maturity, stability, sense of responsibility, and any apparent development in his personality which may promote or hinder his conformity to law;

(d) The prisoner's ability and readiness to assume obligations and undertake responsibilities;

(e) The prisoner's intelligence and training;

(f) The prisoner's employment history, his skills, and
the stability of his past employment or occupation;

(g) The type of residence, neighborhood, or community

in which the prisoner plans to live;

(h) The prisoner's past use of narcotics or past

habitual and excessive use of alcohol;

(i) The prisoner's mental or physical makeup, including

any disability or handicap which may affect his conformity to law;

(j) The prisoner's prior criminal record, including

the nature and circumstances, recency, and frequency of previous offenses;

(k) The prisoner's attitude toward law and authority;

(l) The prisoner's conduct in the institution, in-

cluding particularly whether he has taken advantage of the opportunities

for self-improvement afforded by the institutional program, whether he

has been punished for misconduct within 6 months prior to his hearing

or reconsideration for parole release, whether he has forfeited any

reductions of term during his period of imprisonment, and whether such

reductions have been restored at the time of hearing or reconsideration

and;

(m) The prisoner's conduct and attitude during any

previous experiences of probation or parole and the recency of such

experience.

Section 15. Recommendation of the board. The board shall render

its written recommendation regarding a prisoner's release on parole

within 10 days after the hearing. The recommendation shall be by

majority vote of the entire board. In its decision, the board shall
1 either recommend the prisoner's release date and conditions of parole or
2 it shall recommend the deferral of the case for later consideration. If
3 the board recommends a release date, such date shall not be more than 3
4 months from the date of the prisoner's parole hearing. If the board
5 recommends deferral of the case for later consideration, it may recommend
6 a date before which reconsideration will not be granted without a
7 substantial change in circumstances. In either event, the prisoner shall
8 be promptly notified of the decision of the board. The recommendations
9 of the board shall be promptly transmitted to the President for his
10 action. Any member dissenting from the recommendation may submit a
11 minority report. The petitioner shall be given a copy of the recommenda-
12 tion and may within 14 days present a written comment on the recommenda-
13 tion to the President.
14
15 Section 16. Conditions of parole. When a prisoner is released
16 on parole, it shall be required as a condition of parole that he refrain
17 from engaging in criminal conduct. It may also be required, either at
18 the time of his release on parole or at any time and from time to time
19 while he remains under parole, that he conform to any of the following
20 conditions of parole:
21     (1) Meet his specified family responsibilities;
22     (2) Devote himself to an approved employment or occupation; or
23     (3) Remain within the geographic limits fixed in his
24 Certificate of Parole, unless granted written permission to leave such
25 limits.
26
27 Section 17. Certificate of Parole. If the President grants the
petitioner a parole, a Certificate of Parole will be given to the parolee which shall incorporate all conditions of the parole. Before released on parole, a parolee shall sign the certificate and agree to the conditions of the parole. A copy of the Certificate of Parole shall be given to:

(1) The Office of the Attorney General for the Federated States of Micronesia;

(2) The office of the attorney general for any State concerned;

and

(3) The chief of police for any State concerned.

Section 18. Coordination of parole with court officers. The President may enter into agreement with the courts of the Federated States of Micronesia to utilize court personnel, particularly probation officers, to effectuate the provisions of this act.

Section 19. Procedure for revocation. At any time when a member of the board, the Attorney General of the Federated States of Micronesia, or a State attorney general has reasonable cause to believe that any of the conditions of parole specified in the Certificate of Parole have been violated by the parolee, application may be made to the Trial Division of the Supreme Court of the Federated States of Micronesia for a revocation of parole, and may be accompanied by a request for a warrant for the apprehension and holding of the parolee in custody pending a determination on revocation of his parole. Upon consideration of the application, the Court shall issue either an arrest warrant or summons for the parolee. At the initial appearance of the parolee,
the Court shall provide a copy of the application for revocation of parole
to the parolee, appoint counsel, and set a date for a parole revocation
hearing. The parolee may admit or deny the violation charged. If the
parolee admits the violation, or after a hearing the Court finds, to a
preponderance of the evidence, that the parolee has violated the conditions
of parole, then the Court shall determine the effect of the violation on
the parole.

Section 20. **Effect of violation.** After the Court finds, pursuant
to section 19, that a violation of the conditions of parole has been
committed by the parolee, the Court may:

1. **(1) Deem the violation de minimus and allow the parole to**
   continue;

2. **(2) In lieu of revocation of parole, add to or change the**
   conditions of parole;

3. **(3) Suspend the parole for a temporary period not to exceed**
   60 days, recommitting the parolee for that period of time; or

4. **(4) Revoke the parole.**

Section 21. **Effect of revocation.**

1. **(1) A parolee whose parole is revoked for violation of the**
   conditions of parole shall be recommitted for the remainder of the term
   of sentence. The remainder of the term of sentence shall be computed
   by subtracting the period served prior to the granting of parole from the
   original sentence. Reductions previously earned for good time and any
   other credits prior to the parole shall also be recredited.

2. **(2) A parolee whose parole has been revoked may be considered**
by the President for reparation after serving a further period of imprison-
ment of 6 months.

(3) Except in case of a parolee who has absconded from the
jurisdiction or from his place of residence, action revoking a parolee's
parole and recommitting him for violation of the conditions of parole
must be taken before the expiration of his maximum parole term. A
parolee who has absconded from the jurisdiction, or from his place of
residence, shall be treated as a parole violator and whenever he is
apprehended shall be subject to recommitment or to supervision for the
balance of his parole term remaining on the date when he absconded.

Section 22. Regulations. The President of the Federated States
of Micronesia may, from time to time, issue such regulations as are
reasonably necessary to implement this act.

Section 23. Effective date. 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: Oct. 27/83

Introduced by: Claude H. Phillip

Claude Phillip