A BILL FOR AN ACT

To further amend title 11 of the Code of the Federated States of Micronesia, as amended by Public Laws Nos. 2-71, 3-63, and 3-75, by amending sections 104 and 902 to define major crimes as the offenses of murder, manslaughter, and negligent homicide and by repealing sections 914 to 953, and for other purposes.

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

Section 1. Section 104 of title 11 of the Code of the Federated States of Micronesia is hereby amended to read as follows:

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

(1) 'Classification of crimes.' A 'felony' is an offense which may be punished by imprisonment for more than one year. A 'petty misdemeanor' is an offense which may be punished by imprisonment for not more than thirty days. Every other offense is a 'misdemeanor.'

(2) 'Criminal negligence.' A person acts with criminal negligence, or is criminally negligent, with respect to attendant circumstances when his conduct creates a substantial and unjustifiable risk and causes the criminal result; or if his failure to be aware of the risk constitutes a gross deviation from the standard of care that a reasonable person would exercise in the situation.

(3) 'Defendant.' The term 'defendant' includes a person who is an accessory or accomplice of the defendant.

(4) 'Intent.' A person acts intentionally, or with intent, with respect to his conduct or to a result thereof when it is his conscious purpose to engage in the conduct or cause the result.

(5) 'Knowledge.' A person acts knowingly, or with knowledge, with respect to his conduct or to attendant circumstances when he is aware of the nature of his conduct or that those circumstances
exist. A person acts knowingly, or with knowledge, with respect to a result of his conduct when he is aware that his conduct is practically certain to cause the result.

(6) 'Major crimes.' A major crime is any crime which is punishable by imprisonment for a period of three years or more are the offenses of murder, manslaughter, and negligent homicide. An attempt to commit a major crime is also a major crime.

(7) 'National offense.' A national offense is an offense defined by this code or which is otherwise an offense against the Federated States of Micronesia.

(8) 'Official proceeding.' Official proceeding means a proceeding heard or which may be heard before any legislative, judicial, administrative, or other governmental agency of the Federated States of Micronesia, or official authorized to take evidence under oath, including any referee, hearing examiner, commissioner, notary, or other person taking testimony or deposition in connection with any such proceeding. The term 'official proceeding' includes all judicial and administrative proceedings of the Government of the Trust Territory of the Pacific Islands which arise out of the Federated States of Micronesia.

(9) 'Recklessness.' Recklessness means to act with willful disregard to the attendant circumstances, or if unaware of the circumstances, to act in such a manner that constitutes a gross deviation from the standard of care that a reasonable
person would exercise in the situation.

(10) 'Persons.' The terms 'person,' 'he,' 'accused,' and 'defendant' include any natural person and, where relevant, a corporation or an unincorporated association.

(11) 'Public servant.' A 'public servant' means any officer or employee of, or any person acting on behalf of, the Federated States of Micronesia, including legislators and judges, and any person acting as an advisor, consultant, or otherwise, in performing a governmental function; but the term does not include witnesses. The term 'public servant' includes a public servant of the Government of the Trust Territory of the Pacific Islands when acting in judicial or administrative proceeding which has been brought in, or arises out of, the Federated States of Micronesia.

(12) 'State.' The term 'State' means a State of the Federated States of Micronesia."

Section 2. Section 909 of title 11 of the Code of the Federated States of Micronesia is hereby amended to read as follows:

"Section 902. Major crimes defined. 'Major crimes' are defined as follows:

(1) All crimes which are punishable by imprisonment for a period of three years or over and the crimes of murder, manslaughter, and negligent homicide, as well as any attempt to commit such crimes.

(2) All crimes concerning theft of property of the value of $7,000 or more or as any
Section 3. Sections 914 to 953 of title 11 of the Code of the Federated States of Micronesia, as amended by Public Law No. 2-71, are hereby repealed in their entirety.

Section 4. This act shall be applicable to offenses committed before and after its effective date in the following manner:

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

(2) Prosecutions for offenses 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 5. Sections 1 to 4 of this act shall take effect upon the enactment of State criminal statutes, the certification of functioning State courts in all four States of the Federated States of Micronesia, and the appointment and confirmation of at least one judge in each of the four State courts who is a licensed attorney, as evidenced by his admission to practice before the FSM Supreme Court or the highest court in a jurisdiction other than one within the Federated States of Micronesia, or two years from the date this act becomes law, whichever comes first.
Section 6. 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: 5/10/85

Introduced by:

[Signature]

Jack Fritz