A BILL FOR AN ACT

To further amend title 11 of the Code of the Federated States of Micronesia, as amended, by adding a new chapter 14 for the purpose of providing for paroles and their revocation, and for other purposes.

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

Section 1. Title 11 of the Code of the Federated States of Micronesia is hereby further amended by the addition of a new section 1401 of chapter 14 to read as follows:

"Section 1401. Application. The provisions of this act shall be applicable to all persons serving a sentence of incarceration for any National offense, or for any offense for which the person incarcerated could have been sentenced by the court to a term of more than 3 years. This act provides the exclusive mechanism by which parole may be granted in the Federated States of Micronesia."

Section 2. Title 11 of the Code of the Federated States of Micronesia is hereby further amended by the addition of a new section 1402 of chapter 14 to read as follows:

"Section 1402. Authority in President. Any person to whom the provisions of this act apply may be paroled by the President of the Federated States of Micronesia as provided in this act upon such terms and conditions as he may deem best. Any person so paroled may have his parole revoked by the Trial Division of the Supreme Court of the Federated States of Micronesia as provided in this act. Before the President acts upon applications for parole, he shall receive the recommendation of the applicable board of paroles."

Section 3. Title 11 of the Code of the Federated States of Micronesia is hereby further amended by the addition of a new section 1403 of chapter 14 to read as follows:
"Section 1403. Board of paroles. There is hereby
established in each State in the Federated States of Micronesia a State board of paroles (hereinafter the 'board')
composed of five members appointed by the President of the
Federated States of Micronesia. The members of each board
shall annually select a chairman from among themselves."

Section 4. Title 11 of the Code of the Federated States of Micronesia is hereby further amended by the addition of a new section 1404 of chapter 14 to read as follows:

"Section 1404. Qualifications. Persons appointed to the
board shall be residents of the respective State, shall not
be related by lineage or by clan, and shall otherwise have
the same qualifications as Members of Congress."

Section 5. Title 11 of the Code of the Federated States of Micronesia is hereby further amended by the addition of a new section 1405 of chapter 14 to read as follows:

"Section 1405. Compensation. Members shall receive no
compensation 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. Title 11 of the Code of the Federated States of Micronesia is hereby further amended by the addition of a new section 1406 of chapter 14 to read as follows:

"Section 1406. Terms. Members of the boards of paroles
shall serve a term of 1 year from the date of appointment
and may thereafter serve at the discretion of the President."

Section 7. Title 11 of the Code of the Federated States of Micronesia is hereby further amended by the addition of a new section 1407 of chapter 14 to read as follows:

"Section 1407. 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. Title 11 of the Code of the Federated States of Micronesia is hereby further amended by the addition of a new section 1408 of chapter 14 to read as follows:

"Section 1408. 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 1404."

Section 9. Title 11 of the Code of the Federated States of Micronesia is hereby further amended by the addition of a new section 1409 of chapter 14 to read as follows:

"Section 1409. Duties of the board. The duty of each State board of paroles 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. Title 11 of the Code of the Federated States of Micronesia is hereby further amended by the addition of a new section 1410 of chapter 14 to read as follows:

"Section 1410. 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. Title 11 of the Code of the Federated States of Micronesia is hereby further amended by the addition of a new section 1411 of chapter 14 to read as follows:

"Section 1411. 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:

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

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

(c) The chief of police for any State concerned;

(d) Probation officers from the State concerned;

(e) The victim or his family; and

(f) 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. Title 11 of the Code of the Federated States of Micronesia is hereby further amended by the addition of a new section 1411 of chapter 14 to read as follows:

"Section 1411. 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:

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

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

(c) The chief of police for any State concerned;

(d) Probation officers from the State concerned;

(e) The victim or his family; and

(f) 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."
Micronesia is hereby further amended by the addition of a new section 1412 of chapter 14 to read as follows:

"Section 1412. 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. Title 11 of the Code of the Federated States of Micronesia is hereby further amended by the addition of a new section 1413 of chapter 14 to read as follows:

"Section 1413. 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 1411 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."

Section 14. Title 11 of the Code of the Federated States of
Micronesia is hereby further amended by the addition of a new section
1414 of chapter 14 to read as follows:

"Section 1414. Criteria.
(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;
(1) The prisoner's conduct in the institution, including 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. Title 11 of the Code of the Federated States of Micronesia is hereby further amended by the addition of a new section 1415 of chapter 14 to read as follows:

"Section 1415. 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 either recommend the prisoner's release date and conditions of parole or it shall recommend the deferral of the case for later consideration. If the board recommends a release date, such date shall not be more than 3 months from the date of the prisoner's parole hearing. If the board recommends deferral of the case for
later consideration, it may recommend a date before which
reconsideration will not be granted without a substantial
change in circumstances. In either event, the prisoner shall
be promptly notified of the decision of the board. The
recommendations of the board shall be promptly transmitted
to the President for his action. Any member dissenting from
the recommendation may submit a minority report. The
petitioner shall be given a copy of the recommendation and
may within 14 days present a written comment on the
recommendation to the President."

Section 16. Title 11 of the Code of the Federated States of
Micronesia is hereby further amended by the addition of a new section
1416 of chapter 14 to read as follows:

"Section 1416. Conditions of parole. When a prisoner is
released on parole, it shall be required as a condition of
parole that he refrain from engaging in criminal conduct. It
may also be required, either at the time of his release on
parole, or at any time, and from time to time while he
remains under parole, that he conform to any of the following
conditions of parole:

(1) Meet his specified family responsibilities;
(2) Devote himself to an approved employment or
occupation; or
(3) Remain within the geographic limits fixed in his
Certificate of Parole, unless granted written permission to
leave such limits."

Section 17. Title 11 of the Code of the Federated States of Micronesia is hereby further amended by the addition of a new section 1417 of chapter 14 to read as follows:

"Section 1417. 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 of 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. Title 11 of the Code of the Federated States of Micronesia is hereby further amended by the addition of a new section 1418 of chapter 14 to read as follows:

"Section 1418. 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. Title 11 of the Code of the Federated States of Micronesia is hereby further amended by the addition of a new section 1419 of chapter 14 to read as follows:

"Section 1419. Coordination of parole with community agencies. The President may enter into agreement with community agencies, particularly probation officers, to effectuate the provisions of this act."
Micronesia is hereby further amended by the addition of a new section 1419 of chapter 14 to read as follows:

"Section 1419. 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, an 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. Title 11 of the Code of the Federated States of Micronesia is hereby further amended by the addition of a new section
1420 of chapter 14 to read as follows:

"Section 1420. **Effect of violation.** After the Court finds, pursuant to section 1419, that a violation of the conditions of parole has been committed by the parolee, the Court may:

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

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

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

4. Revoke the parole."

Section 21. Title 11 of the Code of the Federated States of Micronesia is hereby further amended by the addition of a new section 1421 of chapter 14 to read as follows:

"Section 1421. **Effect of revocation.**

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. A parolee whose parole has been revoked may be considered by the President for reparole after serving a
further period of imprisonment 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. Title 11 of the Code of the Federated States of
Micronesia is hereby further amended by the addition of a new section
1422 of chapter 14 to read as follows:

"Section 1422. Regulation. The President is hereby
authorized to promulgate regulations, in accordance with
chapter 1 of title 17 of the Code of the Federated States of
Micronesia, implementing the provisions of this act, which
regulations shall have the force and effect of law."

Section 23. 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: 5/26/87

Introduced by: [Signature]

Dohsis Halbert