A BILL FOR AN ACT

To amend title 12 of the Code of the Federated States of Micronesia by repealing chapter 10 in its entirety and adding a new chapter 10 to establish procedures for the surrender of persons who have committed crimes in foreign countries; by adding a new chapter 11 to establish procedures for the transfer of offenders to and from foreign countries; by renumbering chapters 11, 12, and 13; and for other purposes.

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

Section 1. Chapter 10 of title 12 of the Code of the Federated States of Micronesia is hereby repealed in its entirety.

Section 2. Title 12 of the Code of the Federated States of Micronesia is hereby amended by adding a new section 1001 of chapter 10 to read as follows:

"Section 1001. Scope and limitation of chapter. The provisions of this chapter relating to the surrender of persons who have committed crimes in foreign countries shall continue in force only during the existence of any extradition agreement with such foreign government and shall be read in light of and consistent with the extradition agreement pursuant to which a request for extradition is made."

Section 3. Title 12 of the Code of the Federated States of Micronesia is hereby amended by adding a new section 1002 of chapter 10 to read as follows:

"Section 1002. Fugitives from foreign country to Federated States of Micronesia. Whenever there is an agreement for extradition between the Federated States of Micronesia and any foreign government, any Federated States of Micronesia justice or any judge authorized to do so by a Federated States of Micronesia court may, upon complaint made under oath charging any person found within his jurisdiction with having committed within the jurisdiction of any such foreign government any of the crimes provided for by such jurisdiction, surrender such person to the government of said foreign country."
agreement, issue his warrant for the apprehension of the
person so charged, that he may be brought before such
justice or judge, to the end that the evidence of
criminality may be heard and considered. If, on such
hearing, he deems the evidence sufficient to sustain the
charge under the provisions of the proper treaty or
convention, he shall certify the same, together with a copy
of all the testimony taken before him, to the Secretary of
External Affairs, that a warrant may issue upon the
requisition of the proper authorities of such foreign
government, for the surrender of such person, according to
the stipulations of the treaty or convention; and he shall
issue his warrant for the commitment of the person so
charged to the proper jail, there to remain until such
surrender shall be made."

Section 4. Title 12 of the Code of the Federated States of
Micronesia is hereby amended by adding a new section 1003 of chapter
10 to read as follows:

"Section 1003. Secretary of External Affairs to surrender
fugitive. The Secretary of External Affairs may order the
person committed under section 1002 of this title to be
delivered to any authorized agent of such foreign
government, to be tried for the offenses of which charged.
Such agent may hold such person in custody, and take him to
the territory of such foreign government, pursuant to such
treaty. A person so accused who escapes may be retaken in the same manner as any person accused of any offense."

Section 5. Title 12 of the Code of the Federated States of Micronesia is hereby amended by adding a new section 1004 of chapter 10 to read as follows:

"Section 1004. Time of commitment pending extradition. Whenever any person who is committed for rendition to a foreign government to remain until delivered up in pursuance of a requisition, is not so delivered up and conveyed out of the Federated States of Micronesia within 2 calendar months after such commitment, over and above the time actually required to convey the prisoner from the jail to which he was committed, by the readiest way, out of the Federated States of Micronesia, any Federated States of Micronesia Justice or any judge authorized to do so by a Federated States of Micronesia court upon application made to him by or on behalf of the person so committed, and upon proof made to him that reasonable notice of the intention to make such application has been given to the Secretary of External Affairs, may order the person so committed to be discharged out of custody, unless sufficient cause is shown to such judge why such discharge ought not to be ordered."

Section 6. Title 12 of the Code of the Federated States of Micronesia is hereby amended by adding a new section 1005 of chapter 10 to read as follows:
"Section 1005. Place and character of hearing. Hearings in cases of extradition under an extradition agreement shall be held on land, publicly, and in a room or office easily accessible to the public."

Section 7. Title 12 of the Code of the Federated States of Micronesia is hereby amended by adding a new section 1006 of chapter 10 to read as follows:

"Section 1006. Evidence on hearing. Depositions, warrants, or other papers or copies thereof offered in evidence upon the hearing of any extradition case shall be received and admitted as evidence on such hearing for all the purposes of such hearing if they shall be properly and legally authenticated so as to entitle them to be received for similar purposes by the tribunals of the foreign country from which the accused party shall have escaped, and the certificate of the principal representative or liaison officer of the Federated States of Micronesia resident in such foreign country, if any, shall be proof that the same, so offered, are authenticated in the manner required."

Section 8. Title 12 of the Code of the Federated States of Micronesia is hereby amended by adding a new section 1007 of chapter 10 to read as follows:

"Section 1007. Witnesses for indigent fugitives. On the hearing of any case under a claim of extradition by a
foreign government, upon affidavit being filed by the person
charged setting forth that there are witnesses whose
evidence is material to his defense, that he cannot safely
go to trial without them, what he expects to prove by each
of them, and that he is not possessed of sufficient means,
and is actually unable to pay the fees of such witnesses,
the justice or judge hearing the matter may order that such
witnesses be subpoenaed; and the costs incurred by the
process, and the fees of witnesses, shall be paid in the
same manner as in the case of witnesses subpoenaed in
behalf of the Federated States of Micronesia."

Section 9. Title 12 of the Code of the Federated States of
Micronesia is hereby amended by adding a new section 1008 of chapter
10 to read as follows:

"Section 1008. Protection of accused. Whenever any person
is delivered by any foreign government to an agent of the
Federated States of Micronesia, for the purpose of being
brought within the Federated States of Micronesia and tried
for any offense of which he is duly accused, the Attorney
General shall have power to take all necessary measures for
the transportation and safekeeping of such accused person,
and for his security against lawless violence, until the
final conclusion of his trial for the offenses specified in
the warrant of extradition, and until his final discharge
from custody or imprisonment for or on account of such
offenses, and for a reasonable time thereafter."

Section 10. Title 12 of the Code of the Federated States of Micronesia is hereby amended by adding a new section 1009 of chapter 10 to read as follows:

"Section 1009. Receiving and transporting offenders. An officer of the Division of Security and Investigation or a State police officer authorized by the Attorney General shall receive, in behalf of the Federated States of Micronesia, the delivery, by a foreign government, of any person accused of a crime committed within the Federated States of Micronesia, and shall convey him to the place of his trial."

Section 11. Title 12 of the Code of the Federated States of Micronesia is hereby amended by adding a new section 1010 of chapter 10 to read as follows:

"Section 1010. Payment of fees and costs. (1) All costs or expenses incurred in any extradition proceeding in apprehending, securing, and transmitting a fugitive shall be paid by the demanding authority. All witness fees and costs of every nature in cases of international extradition shall be certified by the Justice or judge before whom the hearing shall take place to the Attorney General, and the same shall be paid out of appropriations to defray the expenses of the Judiciary or the Office of the Attorney General as the case may be.
(2) The Attorney General shall certify to the Secretary of External Affairs the amounts to be paid to the Federated States of Micronesia on account of said fees and costs in extradition cases by the foreign government requesting the extradition, and the Secretary of External Affairs shall cause said amounts to be collected and transmitted to the Attorney General for deposit in the General Fund of the Federated States of Micronesia."

Section 12. Title 12 of the Code of the Federated States of Micronesia is hereby amended by adding a new section 1101 of chapter 11 to read as follows:

"Section 1101. Scope and limitation of chapter.

(1) The provisions of this chapter relating to the transfer of offenders shall be applicable only when an international agreement providing for such a transfer is in force, and shall only be applicable to transfers of offenders to and from a foreign country pursuant to such an agreement. The provisions of this chapter shall be read in light of and consistent with the international agreement pursuant to which a request for transfer is made. A sentence imposed by a foreign country upon an offender who is subsequently transferred to the Federated States of Micronesia pursuant to an international agreement shall be subject to being fully executed in the Federated States of Micronesia even though the international agreement under
which the offender was transferred is no longer in force.

(2) An offender may be transferred from the Federated States of Micronesia pursuant to this chapter only to a country of which the offender is a citizen or national. Only an offender who is a citizen or national of the Federated States of Micronesia may be transferred to the Federated States of Micronesia. An offender may be transferred to or from the Federated States of Micronesia only with the offender's consent, and only if the offense for which the offender was sentenced satisfies the requirement of double criminality as defined in section 1102 of this title. Once an offender's consent to transfer has been verified by a verifying officer, that consent shall be irrevocable. If at the time of transfer the offender is under 18 years of age the transfer shall not be accomplished unless consent to the transfer is given by a parent or guardian or by an appropriate court of the sentencing country.

(3) An offender shall not be transferred to or from the Federated States of Micronesia if a proceeding by way of appeal or of collateral attack upon the conviction or sentence is pending.

(4) The Federated States of Micronesia upon receiving notice from the country which imposed the sentence that the offender has been granted a pardon, commutation, or
amnesty, or that there has been an ameliorating modification or a revocation of the sentence shall give the offender the benefit of the action taken by the sentencing country."

Section 13. Title 12 of the Code of the Federated States of Micronesia is hereby amended by adding a new section 1102 of chapter 11 to read as follows:

"Section 1102. Definitions. As used in this chapter:

(1) 'Double criminality' means that at the time of transfer of an offender the offense for which he has been sentenced is still an offense in the transferring country and is also an offense in the receiving country. With regard to a country which has a federal form of government, an act shall be deemed to be an offense in that country if it is an offense under the federal laws or the laws of any state or province thereof;

(2) 'Imprisonment' means a penalty imposed by a court under which the individual is confined to an institution;

(3) 'International agreement' means an agreement concluded by the Federated States of Micronesia with another nation or nations pursuant to which an offender sentenced in the courts of one country may be transferred to the country of which he is a citizen or national for the purpose of serving the sentence;

(4) 'Juvenile' means a person who is under 18 years
of age;

(5) 'Juvenile delinquency' means:

(a) A violation of the laws of the Federated States of Micronesia or a State thereof or of a foreign country committed by a juvenile which would have been a crime if committed by an adult; or

(b) Noncriminal acts committed by a juvenile for which supervision or treatment by juvenile authorities of the Federated States of Micronesia, a State thereof, or of the foreign country concerned is authorized;

(6) 'Offender' means a person who has been convicted of an offense or who has been adjudged to have committed an act of juvenile delinquency;

(7) 'Parole' means any form of release of an offender from imprisonment to the community by a releasing authority prior to the expiration of his sentence, subject to conditions imposed by the releasing authority and to its supervision;

(8) 'Probation' means any form of sentence to a penalty of imprisonment the execution of which is suspended and the offender is permitted to remain at liberty under supervision and subject to conditions for the breach of which the suspended penalty of imprisonment may be ordered executed;

(9) 'Sentence' means not only the penalty imposed but
also the judgment of conviction in a criminal case or a
cjudgment of acquittal in the same proceeding, or the
adjudication of delinquency in a juvenile delinquency
proceeding or dismissal of allegations of delinquency in
the same proceedings;

(10) 'State' means any State of the Federated States
of Micronesia; and
(11) 'Transfer' means a transfer of an individual for
the purpose of the execution in one country of a sentence
imposed by the courts of another country."

Section 14. Title 12 of the Code of the Federated States of
Micronesia is hereby amended by adding a new section 1103 of chapter
11 to read as follows:

"Section 1103. Authority of the Attorney General. The
Attorney General is authorized:

(1) To act on behalf of the Federated States of
Micronesia as the authority referred to in an international
agreement;

(2) To receive custody of offenders under a sentence
of imprisonment, on parole, or on probation who are
citizens or nationals of the Federated States of Micronesia
transferred from foreign countries and as appropriate
confine them in penal or correctional institutions, or
assign them to the probation authorities for supervision;

(3) To transfer offenders under a sentence of
imprisonment or on probation to the foreign countries of
which they are citizens or nationals;

(4) To make regulations for the proper implementation
of such treaties in accordance with this chapter and to
make regulations to implement this chapter;

(5) To render to foreign countries and to receive
from them the certifications and reports required to be
made under such treaties;

(6) To make arrangements by agreement with the states
for the transfer of offenders in their custody who are
citizens or nationals of foreign countries to the foreign
countries of which they are citizens or nationals and for
the confinement, where appropriate, in state institutions
of offenders transferred to the Federated States of
Micronesia;

(7) To make agreements and establish regulations for
the transportation through the territory of the Federated
States of Micronesia of offenders convicted in a foreign
country who are being transported to a third country for
the execution of their sentences, the expenses of which
shall be paid by the country requesting the transportation;

(8) To make agreements with the appropriate
authorities of a foreign country and to issue regulations
for the transfer and treatment of juveniles who are
transferred pursuant to an international agreement, the
expenses of which shall be paid by the country of which the
juvenile is a citizen or national;

(9) In concert with the Director of the Office of
Health Services, to make arrangements with the appropriate
authorities of a foreign country and to issue regulations
for the transfer and treatment of individuals who are
accused of an offense but who have been determined to be
mentally ill, the expenses of which shall be paid by the
country of which such person is a citizen or national;

(10) To receive, on behalf of the Federated States of
Micronesia, the delivery by a foreign government of any
citizen or national of the Federated States of Micronesia
being transferred to the Federated States of Micronesia for
the purpose of serving a sentence imposed by the courts of
the foreign country, and to convey him within the Federated
States of Micronesia."

Section 15. Title 12 of the Code of the Federated States of
Micronesia is hereby amended by adding a new section 1104 of chapter
11 to read as follows:

"Section 1104. Applicability of Federated States of
Micronesia laws. All laws of the Federated States of
Micronesia, as appropriate; pertaining to prisoners,
probationers, and juvenile offenders shall be applicable to
offenders transferred to the Federated States of
Micronesia, unless an international agreement or this
chapter provides otherwise."

Section 16. Title 12 of the Code of the Federated States of
Micronesia is hereby amended by adding a new section 1105 of chapter
11 to read as follows:

"Section 1105. Transfer of offenders on probation.

(1) Prior to consenting to the transfer to the
Federated States of Micronesia of an offender who is on
probation, the Attorney General shall determine that the
appropriate Federated States of Micronesia court is willing
to undertake the supervision of the offender.

(2) Upon the receipt of an offender on probation from
the authorities of a foreign country, the Attorney General
shall cause the offender to be brought before the Federated
States of Micronesia court which is to exercise supervision
over the offender.

(3) The court shall place the offender under the
supervision of a justice ombudsman of the court. The
offender shall be supervised by a justice ombudsman, under
such conditions as are deemed appropriate by the court as
though probation had been imposed by the Federated States
of Micronesia court.

(4) The probation may be revoked in accordance with
the Rules of Criminal Procedure for the Trial Division of
the Supreme Court of the Federated States of Micronesia. A
violation of the conditions of probation shall constitute
grounds for revocation. If probation is revoked the
suspended sentence imposed by the sentencing court shall be
executed.

(5) The provisions of section 1106 of this title
shall be applicable following a revocation of probation.

(6) Prior to consenting to the transfer from the
Federated States of Micronesia of an offender who is on
probation, the Attorney General shall obtain the assent of
the court exercising jurisdiction over the probationer."

Section 17. Title 12 of the Code of the Federated States of
Micronesia is hereby amended by adding a new section 1106 of chapter
11 to read as follows:

"Section 1106. Transfer of offenders serving sentence of
imprisonment.

(1) Except as provided elsewhere in this section, an
offender serving a sentence of imprisonment in a foreign
country transferred to the custody of the Attorney General
shall remain in the custody of the Attorney General under
the same conditions and for the same period of time as an
offender who had been committed to the custody of the
Attorney General by a court of the Federated States of
Micronesia for the period of time imposed by the sentencing
court.

(2) The transferred offender shall be entitled to all
credits toward the service of the sentence which had been
given by the transferring country for time served as of the
time of the transfer.

(3) Any sentence for an offense against the Federated
States of Micronesia, imposed while the transferred
offender is serving the sentence of imprisonment imposed in
a foreign country, shall be aggregated with the foreign
sentence, in the same manner as if the foreign sentence was
one imposed by a Federated States of Micronesia court for
an offense against the Federated States of Micronesia."

Section 18. Title 12 of the Code of the Federated States of
Micronesia is hereby amended by adding a new section 1107 of chapter
11 to read as follows:

"Section 1107. Transfer of offenders on parole. Upon the
receipt of an offender who is on parole from the
authorities of a foreign country, the Attorney General
shall assign the offender to a justice ombudsman of the
appropriate Federated States of Micronesia court for
supervision."

Section 19. Title 12 of the Code of the Federated States of
Micronesia is hereby amended by adding a new section 1108 of chapter
11 to read as follows:

"Section 1108. Verification of consent of offender to
transfer from the Federated States of Micronesia.

(1) Prior to the transfer of an offender from the
Federated States of Micronesia, the fact that the offender
consents to such transfer and that such consent is voluntary and with full knowledge of the consequences thereof shall be verified by a Federated States of Micronesia justice or a judge authorized to do so by a Federated States of Micronesia court.

(2) The verifying officer shall inquire of the offender whether he understands and agrees that the transfer will be subject to the following conditions:

(a) Only the appropriate courts in the Federated States of Micronesia may modify or set aside the conviction or sentence, and any proceedings seeking such action may only be brought in such courts;

(b) The sentence shall be carried out according to the laws of the country to which he is to be transferred and that those laws are subject to change;

(c) If a court in the country to which he is transferred should determine upon a proceeding initiated by him or on his behalf that his transfer was not accomplished in accordance with the international agreement or laws of that country, he may be returned to the Federated States of Micronesia for the purpose of completing the sentence if the Federated States of Micronesia requests his return; and

(d) His consent to transfer, once verified by the verifying officer, is irrevocable.

(3) The verifying officer, before determining that an
offender's consent is voluntary and given with full
knowledge of the consequences, shall advise the offender of
his right to consult with counsel as provided by this
chapter. If the offender wishes to consult with counsel
before giving his consent, he shall be advised that the
proceedings will be continued until he has had an
opportunity to consult with counsel.

(4) The verifying officer shall make the necessary
inquiries to determine that the offender's consent is
voluntary and not the result of any promises, threats, or
other improper inducements, and that the offender accepts
the transfer subject to the conditions set forth in
subsection (2) of this section. The consent and acceptance
shall be on an appropriate form prescribed by the Attorney
General.

(5) The proceedings shall be taken down by a reporter
or recorded by suitable recording equipment. The Attorney
General shall maintain custody of the records."

Section 20. Title 12 of the Code of the Federated States of
Micronesia is hereby amended by adding a new section 1109 of chapter
11 to read as follows:

"Section 1109. Verification of consent of offender to
transfer to the Federated States of Micronesia.

(1) Prior to the transfer of an offender to the
Federated States of Micronesia, the fact that the offender
consents to such transfer and that such consent is voluntary and with full knowledge of the consequences thereof shall be verified in the country in which the sentence was imposed by a Federated States of Micronesia justice, a judge authorized to do so by a Federated States of Micronesia court, or a person specifically designated by a Federated States of Micronesia justice. The designation of a citizen who is an employee or officer of a department or agency of the Federated States of Micronesia shall be with the approval of the head of that department or agency.

(2) The verifying officer shall inquire of the offender whether he understands and agrees that the transfer will be subject to the following conditions:

(a) Only the country in which he was convicted and sentenced can modify or set aside the conviction or sentence, and any proceedings seeking such action may only be brought in that country;

(b) The sentence shall be carried out according to the laws of the Federated States of Micronesia and that those laws are subject to change;

(c) If a Federated States of Micronesia court should determine upon a proceeding initiated by him or on his behalf that his transfer was not accomplished in accordance with the international agreement or laws of the Federated States of Micronesia, he may be returned to the
country which imposed the sentence for the purpose of
completing the sentence if that country requests his
return; and

(d) His consent to transfer, once verified by
the verifying officer, is irrevocable.

(3) The verifying officer, before determining that an
offender's consent is voluntary and given with full
knowledge of the consequences, shall advise the offender of
his right to consult with counsel as provided by this
chapter. If the offender wishes to consult with counsel
before giving his consent, he shall be advised that the
proceedings will be continued until he has had an
opportunity to consult with counsel.

(4) The verifying officer shall make the necessary
inquiries to determine that the offender's consent is
voluntary and not the result of any promises, threats, or
other improper inducements, and that the offender accepts
the transfer subject to the conditions set forth in
subsection (2). The consent and acceptance shall be on an
appropriate form prescribed by the Attorney General.

(5) The proceedings shall be taken down by a reporter
or recorded by suitable recording equipment. The Attorney
General shall maintain custody of the records."

Section 21. Title 12 of the Code of the Federated States of
Micronesia is hereby amended by adding a new section 1110 of chapter
11 to read as follows:

"Section 1110. Right to counsel; Appointment of counsel.

In proceedings to verify consent of an offender for transfer, the offender shall have the right to advice of counsel. If the offender is financially unable to obtain counsel:

(1) Counsel for proceedings conducted under section 1108 of this title shall be provided in the same manner as provided to any person accused of any offense; and

(2) Counsel for proceedings conducted under section 1109 of this title shall be appointed by the verifying officer pursuant to such rules as may be prescribed by the Chief Justice of the Supreme Court of the Federated States of Micronesia. The Attorney General shall make payments of fees and expenses of the appointed counsel, in amounts approved by the verifying officer, which shall not exceed the amounts authorized under the rules promulgated by the Chief Justice. Payment in excess of the maximum amount authorized may be made for extended or complex representation whenever the verifying officer certifies that the amount of the excess payment is necessary to provide fair compensation, and the payment is approved by the Chief Justice of the Supreme Court of the Federated States of Micronesia. If counsel from other agencies in any branch of the Government are appointed, the Attorney
General shall make advance payments of travel and
transportation expenses to appointed counsel or reimburse
the employing agency for travel and transportation
expenses."

Section 22. Title 12 of the Code of the Federated States of
Micronesia is hereby amended by adding a new section 1111 of chapter
11 to read as follows:

"Section 1111. Transfer of juveniles. An offender
transferred to the Federated States of Micronesia because
of an act which would have been an act of juvenile
delinquency had it been committed in the Federated States
of Micronesia or any State thereof shall be subject to the
provisions of chapter 11 of title 12 of the Code of the
Federated States of Micronesia except as otherwise provided
in the relevant international agreement or in an agreement
between the Attorney General and the authority of the
foreign country concluded pursuant to an international
agreement."

Section 23. Title 12 of the Code of the Federated States of
Micronesia is hereby amended by adding a new section 1112 of chapter
11 to read as follows:

"Section 1112. Prosecution barred by foreign conviction.
An offender transferred to the Federated States of
Micronesia shall not be detained, prosecuted, tried, or
sentenced by the Federated States of Micronesia, or any
State thereof for any offense the prosecution of which
would have been barred if the sentence upon which the
transfer was based had been by a court of the jurisdiction
seeking to prosecute the transferred offender, or if
prosecution would have been barred by the laws of the
jurisdiction seeking to prosecute the transferred offender
if the sentence on which the transfer was based had been
issued by a Federated States of Micronesia court or by a
court of a State of the Federated States of Micronesia."

Section 24. Title 12 of the Code of the Federated States of
Micronesia is hereby amended by adding a new section 1113 of chapter
11 to read as follows:

"Section 1113. Loss of rights; Disqualification. An
offender transferred to the Federated States of Micronesia
to serve a sentence imposed by a foreign court shall not
incur any loss of civil, political, or civic rights nor
incur any disqualification other than those which under the
laws of the Federated States of Micronesia or of the State
in which the issue arises would result from the fact of the
conviction in the foreign country."

Section 25. Title 12 of the Code of the Federated States of
Micronesia is hereby amended by adding a new section 1114 of chapter
11 to read as follows:

"Section 1114. Status of alien offender transferred to a
foreign country."
(1) An alien who is the subject of an order of
deportation from the Federated States of Micronesia
pursuant to chapter 1 of title 50 of the Code of the
Federated States of Micronesia, who is transferred to a
foreign country pursuant to this chapter shall be deemed
for all purposes to have been deported from this country.

(2) An alien who is the subject of an order of
exclusion and deportation from the Federated States of
Micronesia pursuant to chapter 1 of title 50 of the Code of
the Federated States of Micronesia, who is transferred
to a foreign country pursuant to this chapter shall be
deemed for all purposes to have been excluded from admis-
sion and deported from the Federated States of Micronesia."

Section 26. Title 12 of the Code of the Federated States of
Micronesia is hereby amended by adding a new section 1115 of chapter
11 to read as follows:

"Section 1115. Return of transferred offenders.

(1) Upon a final decision by a Federated States of
Micronesia court that the transfer of the offender to the
Federated States of Micronesia was not in accordance with
an international agreement or the laws of the Federated
States of Micronesia and ordering the offender released
from serving the sentence in the Federated States of
Micronesia the offender may be returned to the country from
which he was transferred to complete the sentence if the
country in which the sentence was imposed requests his
return. The Attorney General shall notify the appropriate
authority of the country which imposed the sentence within
10 days, of a final decision of a court of the Federated
States of Micronesia ordering the offender released. The
notification shall specify the time within which the
sentencing country must request the return of the offender
which shall be no longer than 30 days.

(2) Upon receiving a request from the sentencing
country that the offender ordered released be returned for
the completion of his sentence, the Attorney General may
file a complaint for the return of the offender with any
Federated States of Micronesia justice or any judge
authorized by a Federated States of Micronesia court,
within whose jurisdiction the offender is found. The
complaint shall be upon oath and supported by affidavits
establishing that the offender was convicted and sentenced
by the courts of the country to which his return is
requested; the offender was transferred to the Federated
States of Micronesia for the execution of his sentence; the
offender was ordered released by a court of the Federated
States of Micronesia before he had completed his sentence
because the transfer of the offender was not in accordance
with the international agreement or the laws of the
Federated States of Micronesia; and that the sentencing

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country has requested that he be returned for the
completion of the sentence. There shall be attached to the
complaint a copy of the sentence of the sentencing court
and of the decision of the court which ordered the offender
released.

(3) A summons or a warrant shall be issued by the
justice or judge ordering the offender to appear or to be
brought before the issuing authority. If the justice or
judge finds that the person before him is the offender
described in the complaint and that the facts alleged in
the complaint are true, he shall issue a warrant for
commitment of the offender to the custody of the Attorney
General until surrender shall be made. The findings and a
copy of all the testimony taken before him and of all
documents introduced before him shall be transmitted to the
Secretary of External Affairs, that a return warrant may
issue upon the requisition of the proper authorities of
the sentencing country, for the surrender of the offender.

(4) The complaint referred to in subsection (2) of
this section must be filed within 60 days from the date on
which the decision ordering the release of the offender
becomes final.

(5) An offender returned under this section shall be
subject to the jurisdiction of the country to which he is
returned for all purposes.
(6) The return of an offender shall be conditioned upon the offender being given credit toward service of the sentence for the time spent in the custody of or under the supervision of the Federated States of Micronesia.

(7) Sections 1003 through 1007 and section 1010 of chapter 10 of this title shall be applicable to the return of an offender under this section. However, an offender returned under this section shall not be deemed to have been extradited for any purpose.

(8) An offender whose return is sought pursuant to this section may be admitted to bail or be released on his own recognizance at any stage of the proceedings."

Section 27. Title 12 of the Code of the Federated States of Micronesia is hereby amended by adding a new section 1116 of chapter 11 to read as follows:

"Section 1116. Execution of sentences imposing an obligation to make restitution or reparations. If in a sentence issued in a penal proceeding of a transferring country an offender transferred to the Federated States of Micronesia has been ordered to pay a sum of money to the victim of the offense for damage caused by the offense, that penalty or award of damages may be enforced as though it were a civil judgment rendered by a Federated States of Micronesia court. Proceedings to collect the moneys ordered to be paid may be instituted by the Attorney
General in the appropriate Federated States of Micronesia court. Moneys recovered pursuant to such proceedings shall be transmitted through diplomatic channels to the treaty authority of the transferring country for distribution to the victim."

Section 28. Chapters 11, 12, and 13 of title 12 of the Code of the Federated States of Micronesia are hereby renumbered as chapters 12, 13, and 14, respectively.

Section 29. 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: 7/16/87

Introduced by: Claude H. Phillip
(by request)