

JH60

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
6 granted 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
9 Federated States of Micronesia as provided in this act upon such terms
10 and conditions as he may deem best. Any person so paroled may have
11 his parole revoked by the Trial Division of the Supreme Court of the
12 Federated States of Micronesia as provided in this act. Before the
13 President acts upon applications for parole, he shall receive the
14 recommendation of the applicable board of paroles.

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

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

24 Section 5. Compensation. Members shall receive no compensation
25 for serving on the board, but shall be reimbursed for reasonable

1 expenses as approved by the President incurred in the performance of
2 their duties.

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

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

10 Section 8. Disqualification.

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

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

15 (b) Financial relationship with the petitioner or
16 victim;

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

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

22 (2) Whenever a particular member of the board withdraws or
23 for any other reason is not able to perform his duties, the President
24 shall be informed in writing by the member. The President shall then
25 assign a member of another State board to replace any disqualified

1 member, or may appoint an ad hoc member to serve during the disquali-
2 fication, who otherwise meets the qualifications listed in section 4.

3 Section 9. Duties of the board. The duty of each State board of
4 paroles is to receive petitions for parole for persons incarcerated in
5 the respective State and to conduct hearings and inquiries in order to
6 make recommendations regarding the petition to the President.

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

14 Section 11. Application.

15 (1) Not more than 90 days prior to the anticipated
16 eligibility date, a prisoner may petition the President for parole.
17 The President shall, within 12 days after receipt of the petition,
18 forward the petition to the applicable board and notify the following
19 of the petition:

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

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

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

25 (d) The victim or his family; and

1 (e) Any other person whose comments the President
2 feels would be of assistance to the board.

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

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

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

1 appear personally. The prisoner may choose to be assisted by counsel.

2 Section 14. Criteria.

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

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

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

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

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

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

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

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

23 (c) The prisoner's personality, including his
24 maturity, stability, sense of responsibility, and any apparent
25 development in his personality which may promote or hinder his

1 conformity to law;

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

4 (e) The prisoner's intelligence and training;

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

7 (g) The type of residence, neighborhood, or community
8 in which the prisoner plans to live;

9 (h) The prisoner's past use of narcotics or past
10 habitual and excessive use of alcohol;

11 (i) The prisoner's mental or physical makeup,
12 including any disability or handicap which may affect his conformity
13 to law;

14 (j) The prisoner's prior criminal record, including
15 the nature and circumstances, recency, and frequency of previous
16 offenses;

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

18 (l) The prisoner's conduct in the institution,
19 including particularly whether he has taken advantage of the
20 opportunities for self-improvement afforded by the institutional
21 program, whether he has been punished for misconduct within 6 months
22 prior to his hearing or reconsideration for parole release, whether he
23 has forfeited any reductions of term during his period of imprison-
24 ment, and whether such reductions have been restored at the time of
25 hearing or reconsideration; and

1 (m) The prisoner's conduct and attitude during any
2 previous experiences of probation or parole and the recency of such
3 experience.

4 Section 15. Recommendation of the board. The board shall render
5 its written recommendation regarding a prisoner's release on parole
6 within 10 days after the hearing. The recommendation shall be by
7 majority vote of the entire board. In its decision, the board shall
8 either recommend the prisoner's release date and conditions of parole
9 or it shall recommend the deferral of the case for later consider-
10 ation. If the board recommends a release date, such date shall not be
11 more than 3 months from the date of the prisoner's parole hearing. If
12 the board recommends deferral of the case for later consideration,
13 it may recommend a date before which reconsideration will not
14 be granted without a substantial change in circumstances. In either
15 event, the prisoner shall be promptly notified of the decision of the
16 board. The recommendations of the board shall be promptly transmitted
17 to the President for his action. Any member dissenting from the
18 recommendation may submit a minority report. The petitioner shall be
19 given a copy of the recommendation and may within 14 days present a
20 written comment on the recommendation to the President.

21 Section 16. Conditions of parole. When a prisoner is released
22 on parole, it shall be required as a condition of parole that he
23 refrain from engaging in criminal conduct. It may also be required,
24 either at the time of his release on parole or at any time and from
25 time to time while he remains under parole, that he conform to any of

1 the following conditions of parole:

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

6 Section 17. Certificate of Parole. If the President grants the
7 petitioner a parole, a Certificate of Parole will be given to the
8 parolee which shall incorporate all conditions of the parole. Before
9 released on parole, a parolee shall sign the certificate and agree to
10 the conditions of the parole. A copy of the Certificate of Parole
11 shall be given to:

- 12 (1) The Office of the Attorney General for the Federated
- 13 States of Micronesia;
- 14 (2) The office of the attorney general for any State
- 15 concerned; and
- 16 (3) The chief of police for any State concerned.

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

21 Section 19. Procedure for revocation. At any time when a member
22 of the board, the Attorney General of the Federated States of
23 Micronesia, or a State attorney general has reasonable cause to
24 believe that any of the conditions of parole specified in the
25 Certificate of Parole have been violated by the parolee, application

1 may be made to the Trial Division of the Supreme Court of the
2 Federated States of Micronesia for a revocation of parolee, and may
3 be accompanied by a request for a warrant for the apprehension and
4 holding of the parolee in custody pending a determination on revoca-
5 tion of his parole. Upon consideration of the application, the Court
6 shall issue either an arrest warrant or summons for the parolee. At
7 the initial appearance of the parolee, the Court shall provide a copy
8 of the application for revocation of parole to the parolee, appoint
9 counsel, and set a date for a parole revocation hearing. The parolee
10 may admit or deny the violation charged. If the parolee admits the
11 violation, or after a hearing the Court finds, to a preponderance of
12 the evidence, that the parolee has violated the conditions of parole,
13 then the Court shall determine the effect of the violation on the parole.

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

17 (1) Deem the violation de minimus and allow the parole to
18 continue;

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

21 (3) Suspend the parole for a temporary period not to exceed
22 60 days, recommitting the parolee for that period of time; or

23 (4) Revoke the parole.

24 Section 21. Effect of revocation.

25 (1) A parolee whose parole is revoked for violation of the

1 conditions of parole shall be recommitted for the remainder of the
2 term of sentence. The remainder of the term of sentence shall be
3 computed by subtracting the period served prior to the granting of
4 parole from the original sentence. Reductions previously earned for
5 good time and any other credits prior to the parole shall also be
6 recredited.

7 (2) A parolee whose parole has been revoked may be
8 considered by the President for reparole after serving a further
9 period of imprisonment of 6 months.

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

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

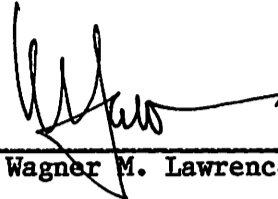
22 Section 23. Repealer. Chapter 14 of title 11 of the Code of the
23 Federated States of Micronesia, as established by Public Law No. 5-24,
24 is hereby repealed in its entirety.

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1 Section 24. Effective date. This act shall become law upon
2 approval by the President of the Federated States of Micronesia or
3 upon its becoming law without such approval.

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5 Date: 11-16-89

Introduced by: 
Wagner M. Lawrence

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