

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. 5-24 and 5-40, by adding a new section 509 to specify that flight to avoid prosecution or give testimony is a National offense, by amending section 105 to provide that no statute of limitations shall extend to any person fleeing from justice; and by further amending title 12 of the Code of the Federated States of Micronesia, as amended by Public Laws Nos. 5-22 and 5-23, by adding a new chapter 16 to authorize the extradition of fugitives from one State who are found in another State, and for other purposes.

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

1 Section 1. Title 11 of the Code of the Federated States of
2 Micronesia is hereby further amended by adding a new section 509
3 to read as follows:

4 "Section 509. Flight to avoid prosecution or giving
5 testimony. Whoever moves or travels in interstate or
6 foreign commerce with intent either:

7 (1) to avoid prosecution, or custody, or
8 confinement after conviction, under the laws of the
9 place from which the fugitive flees, for a crime or an
10 attempt to commit a crime which is a felony under the
11 laws of the place from which the fugitive flees; or

12 (2) to avoid giving testimony in any criminal
13 proceedings in such place in which the commission of an
14 offense which is a felony under the laws of such place
15 is charged; or

16 (3) to avoid service of, or contempt proceedings
17 for alleged disobedience of, lawful process requiring
18 attendance and the giving of testimony or the production
19 of documentary evidence before an agency of a State
20 empowered by the law of such State to conduct
21 investigations of alleged criminal activities;
22 shall be fined not more than \$5,000 or imprisoned not
23 more than five years, or both. Violations of this
24 section may be prosecuted only in the Federated States
25 of Micronesia Supreme Court sitting in the State in

1 which the original crime was alleged to have been
2 committed, or in which the person was held in custody or
3 confinement, or in which an avoidance of service of
4 process or a contempt referred to in subsection (3) of
5 this section is alleged to have been committed, and only
6 upon formal approval in writing by the Attorney General
7 or an Assistant Attorney General of the Federated States
8 of Micronesia, which function of approving prosecutions
9 may not be delegated."

10 Section 2. Section 105 of title 11 of the Code of the
11 Federated States of Micronesia is hereby amended to read as
12 follows:

13 "Section 105. Time limitations for beginning
14 prosecutions.

15 (1) A prosecution for murder may be commenced at
16 any time.

17 (2) Except as otherwise provided in this section,
18 prosecution for other offenses are subject to the
19 following time limitations:

20 (a) A prosecution for an offense which is
21 punishable by imprisonment for more than ten years must
22 be commenced within six years after it is committed.

23 (b) A prosecution for any other felony must be
24 commenced within three years after it is committed.

25 (c) A prosecution for a misdemeanor offense

1 must be commenced within two years after it is
2 committed.

3 (d) A prosecution for a petty misdemeanor must
4 be commenced within six months after it is committed.

5 (3) If the time limitation set forth in subsection
6 (2) of this section has expired, a prosecution may
7 nevertheless be commenced for:

8 (a) Any offense, an element of which is either
9 fraud or a breach of fiduciary obligation, within one
10 year after discovery of the offense by an aggrieved
11 party or by a person who has a legal duty to represent
12 an aggrieved party and who is himself not a party to the
13 offense, but in no case shall this provision extend the
14 period of limitation otherwise applicable by more than
15 three years; or

16 (b) Any offense based on misconduct in office
17 by a public officer or employee at any time when the
18 defendant is in public office or employment or within
19 two years thereafter, but in no case shall this
20 provision extend the period of limitation otherwise
21 applicable by more than three years.

22 (4) The time limitation does not run:

23 (a) During any time when the accused is
24 continuously absent from the jurisdiction or has no
25 reasonably determinable place of abode or work within

1 the jurisdiction; or

2 (b) During any time when a prosecution against
3 the accused for the same conduct is pending in this
4 jurisdiction.

5 (5) A prosecution is commenced either when an
6 information or complaint is filed or when an arrest
7 warrant or other process is executed without
8 unreasonable delay.

9 (6) The statute of limitations shall be suspended
10 for any person fleeing from justice, while he is absent
11 from the complaining jurisdiction."

12 Section 3. Title 12 of the Code of the Federated States of
13 Micronesia is hereby further amended by adding a new section
14 1601 to read as follows:

15 "Section 1601. Interstate extradition -- Obligations of
16 States. A person charged with a public offense in any
17 State of the Federated States of Micronesia, who flees
18 to any other State of the Federated States of
19 Micronesia, shall, upon demand from the executive of the
20 charging State, be apprehended, removed and delivered
21 from the asylum State to the requesting State, in
22 accordance with the provisions of this chapter."

23 Section 4. Title 12 of the Code of the Federated States of
24 Micronesia is hereby further amended by adding a new section
25 1602 to read as follows:

1 "Section 1602. Requirement for warrant. No person
2 shall be extradited from one State to another within the
3 Federated States of Micronesia unless a warrant of
4 arrest is first issued by a court of competent
5 jurisdiction in the requesting State."

6 Section 5. Title 12 of the Code of the Federated States of
7 Micronesia is hereby further amended by adding a new section
8 1603 to read as follows:

9 "Section 1603. Contents of warrant. The warrant of
10 arrest shall set forth with specificity the person to be
11 arrested, a physical description of the person, and the
12 offense for which extradition is sought. The offense
13 for which extradition is sought need not be an offense
14 in the asylum State, so long as it is an offense in the
15 requesting State."

16 Section 6. Title 12 of the Code of the Federated States of
17 Micronesia is hereby further amended by adding a new section
18 1604 to read as follows:

19 "Section 1604. Transmittal of warrant. After a warrant
20 of arrest has been issued, the executive of the
21 requesting State shall transmit a copy of the warrant of
22 arrest, along with his request for execution thereof, to
23 the executive of the asylum State."

24 Section 7. Title 12 of the Code of the Federated States of
25 Micronesia is hereby further amended by adding a new section

1 1605 to read as follows:

2 "Section 1605. Ratification of warrant. Upon receipt,
3 the executive of the asylum State shall ratify the
4 warrant and request, and deliver the same to local law
5 enforcement agencies for execution."

6 Section 8. Title 12 of the Code of the Federated States of
7 Micronesia is hereby further amended by adding a new section

8 1606 to read as follows:

9 "Section 1606. Required findings by court. After
10 arrest of the fugitive, he shall be brought before a
11 court of competent jurisdiction in the asylum State.
12 The court shall determine the validity of the warrant
13 and request and the identity of the fugitive, and may
14 detain the fugitive until his removal or may release him
15 on such conditions as will insure his ready presence for
16 removal, and shall issue findings of fact as to the
17 validity of the warrant and request and the identity of
18 the fugitive."

19 Section 9. Title 12 of the Code of the Federated States of
20 Micronesia is hereby further amended by adding a new section

21 1607 to read as follows:

22 "Section 1607. Time limitations. A fugitive detained
23 shall be removed to the requesting State within 30 days
24 of the issuance of findings by a court of the asylum
25 State, and if not detained, the fugitive shall be

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1 removed to the requesting State within 60 days of the
2 issuance of findings by a court of the asylum State. If
3 not removed within these time limits, the case shall be
4 dismissed without prejudice."

5 Section 10. Title 12 of the Code of the Federated States of
6 Micronesia is hereby further amended by adding a new section
7 1608 to read as follows:

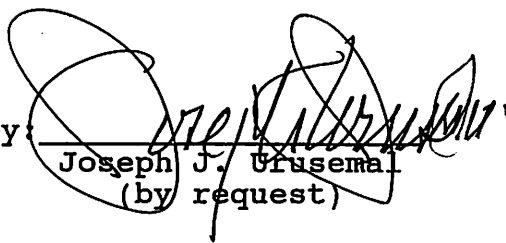
8 "Section 1608. Expenses. All expenses of the
9 extradition, including return to the asylum State upon
10 completion of proceedings in the requesting State, shall
11 be borne by the requesting State."

12 Section 11. This act shall become law upon approval by the
13 President of the Federated States of Micronesia or upon its
14 becoming law without such approval.

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16 Date: 6/02/94

Introduced by:


Joseph J. Brusseau
(by request)

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