

STANDING COMMITTEE REPORT NO. 17-90

RE: C.B. NO. 17-78/J&GO

SUBJECT: DEFINING CRIMES RELATING TO  
TRAFFICKING IN PERSONS AND RELATED  
OFFENSES

FEBRUARY 6, 2012

The Honorable Isaac V. Figir  
Speaker, Seventeenth Congress  
Federated States of Micronesia  
Third Regular Session, 2012

Dear Mr. Speaker:

Your Committee on Judiciary and Governmental Operations, to  
which was referred C.B. No. 17-78, entitled:

"A BILL FOR AN ACT TO FURTHER AMEND TITLE 11 OF  
THE CODE OF THE FEDERATED STATES OF MICRONESIA, AS  
AMENDED BY PUBLIC LAW NO. 11-72, BY CREATING A  
SUBCHAPTER I UNDER CHAPTER 6 CONSISTING OF  
EXISTING SECTIONS 601 THROUGH 610, CREATING A NEW  
SUBCHAPTER II UNDER CHAPTER 6 DEFINING CRIMES  
RELATING TO TRAFFICKING IN PERSONS AND RELATED  
OFFENSES, AND PRESCRIBING APPROPRIATE PENALTIES  
FOR THEIR VIOLATION, AND FOR OTHER PURPOSES.",

begs leave to report as follows:

The intent and purpose of the bill are expressed in its  
title.

A hearing was held on this bill in Palikir on January 24,  
2012, and was attended by representatives of the Department  
of Foreign Affairs, the Department of Justice, and the  
President's office.

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Chairman Panuelo opened the hearing by explaining that the current bill being considered was based on a bill originally transmitted by the President. However, congressional staff had rewritten the bill to conform with Congress's drafting standards, and the Committee had also taken the opportunity in this new bill to address some of the issues raised by some of our international partners, in particular in the definition of prostitution, the creation of an offense of aggravated trafficking in persons, and the strengthening of victims' rights provisions.

The Secretary of the Department of Foreign Affairs explained that this bill was intended to address the obligations of the FSM arising from the nation's accession to the Palermo Protocol. In response to a question as to whether this bill would, standing alone, meet the FSM's obligations, he responded that it was an important first step but that states would also be required to enact legislation. In a supplemental written response, he noted that the bill would fulfill the FSM's obligation under the Protocol to "adopt legislative measures as may be necessary" to establish criminal offenses relating to trafficking in persons.

Representatives of the Department of Justice opined that the national government would have jurisdiction over crimes involving interstate commerce or the movement of persons across interstate borders, but that states would probably have jurisdiction otherwise. In response to a question as to what was being done to ensure that law enforcement at the national and state levels put the legislation into effect, they stated that a task force had been set up to address the issue of trafficking, and to ensure that the challenge of meeting the reporting requirements for the Palermo convention were met. They also stated they believed this bill to be a good start, recognizing that the FSM faces the additional challenge of dealing with both national and state legislation. They noted that the bill had used Palau's relatively concise legislative framework as a model, rather than the United Nations model, which ran to over one hundred pages.

Members raised the issue of potential conflicts with

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Micronesian tradition and custom, in particular with regard to the treatment of children. Specifically, they expressed concern that a child might be able to make spurious charges against a parent or legal guardian. Legal staff suggested a minor amendment to address this issue.

Members also noted that the definition of child varied between states and types of legislation. Department of Justice staff noted that national definitions would apply to a person charged with violating a national law.

Members also raised questions with regard to the adequacy of the punishment, questioning whether the prospect of a fine was sufficient to create deterrence, or whether there should be a mandatory minimum term of imprisonment. DOJ staff stated their opinion that the courts should have some discretion in sentencing, particularly given the potential for customary practices being implicated.

The Secretary concluded by stating that the bill was an important first step in meeting the nation's commitments under the Palermo protocol. He emphasized his belief that the bill was not motivated by a wish merely to comply with US standards, but believed that it nevertheless would be received favorably by the US and the international community.

Your Committee received no comments in opposition to passage of the bill.

Your Committee recommends the following changes:

1. Page 3, line 1, after "voluntarily.", insert "It does not include the performance of reasonable and lawful work or services by a child at the behest of a parent or legal guardian."
2. Page 9, line 11, delete "minor" and insert "child" in lieu thereof.

Your Committee on Judiciary and Government Operations is in accord with the intent and purpose of C.B. No. 17-78, and recommends its passage on First Reading, and that it be

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placed on the Calendar for Second and Final Reading in the  
form attached hereto as C.B. No. 17-78, C.D.1.

Respectfully Submitted,

/s/ David W. Panuelo  
David W. Panuelo, chairman

/s/ Bonsiano F. Nethon  
Bonsiano F. Nethon, vice chairman

/s/ Tiwiter Aritos  
Tiwiter Aritos, member

Isaac V. Figir  
Isaac V. Figir, member

/s/ Yosiwo P. George  
Yosiwo P. George, member

/s/ Dohsis Halbert  
Dohsis Halbert, member

/s/ Roger S. Mori  
Roger S. Mori, member