

STANDING COMMITTEE REPORT NO. 18-106

RE: C.B. No. 18-78 (J&GO)

SUBJECT: REGISTRATION OF CRIMINAL DEPORTEES

JANUARY 22, 2014

The Honorable Dohsis Halbert  
Speaker, Eighteenth Congress  
Federated States of Micronesia  
Third Regular Session, 2014

Dear Mr. Speaker:

Your Committee on Judiciary & Governmental Operations, to which was referred C.B. No. 18-78, entitled:

"A BILL FOR AN ACT TO FURTHER AMEND SECTION 104 OF TITLE 11 OF THE CODE OF THE FEDERATED STATES OF MICRONESIA, AS AMENDED BY PUBLIC LAWS NOS. 11-72 AND 11-76, AND CREATE A NEW SUBCHAPTER III UNDER CHAPTER 6 TO REQUIRE THE REGISTRATION OF DEPORTEES CONVICTED OF CRIMES IN FOREIGN COUNTRIES, TO PROVIDE PENALTIES FOR FAILURE TO REGISTER, AND IN ORDER TO BRING WITHIN DEFINITION OF NATIONAL CRIME THE FAILURE TO REGISTER AS A DEPORTEE, AND FOR OTHER PURPOSES,".

begs leave to report as follows:

The intent and purpose of this bill is expressed in its title.

Your Committee on Judiciary & Governmental Operations held a public hearing on January 14, 2014. The Secretary and members of the Department of Justice were in attendance.

Your Committee heard testimony that since 1999, 444 FSM citizens have been deported from the United States based upon criminal activities. Of these, 277 were from Chuuk, 114 from Pohnpei, 30 from Yap, and 23 from Kosrae. In some cases the crime might be minor, such as a petty

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theft, but in other cases it is far more serious, such as sexual assault of a child.

Your Committee notes that many FSM citizens exercise their right under the Compact to live abroad in the United States. It is a general policy of the United States to deport "undesirable" (criminal) foreign nationals back to their home country. This can occur whether the home country is the FSM, France, Argentina, or any other country.

Yet, your Committee heard testimony that in some instances the United States is deporting those convicted of a crime before their prison sentence is complete. For example, a FSM citizen convicted of sexual abuse of a child, which carries an 8-year sentence, was returned after serving only 2 years. To save the cost of incarcerating a convict for their full-term, the US offers to cut short their sentence in exchange for them agreeing to be deported. Of course, the convict is inclined to take the early release. Similarly, a FSM citizen charged with a crime in the US might be offered the choice to accept a voluntary deportation in lieu of standing trial.

While the Department of Justice is generally notified that an FSM citizen is being deported, the details of the circumstances surrounding their conviction are often vague, incorrect, and incomplete. The US provides a one-page form letter notifying the Attorney General; however, there is currently no mechanism in place where the Department of Justice can notify State and Municipal authorities. In some cases, criminal deportees have returned to the FSM and repeated their criminal behaviour, this time against FSM citizens. It is situations such as these that C.B. No. 18-78 seeks to avoid in the future.

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Your Committee notes that C.B. No. 18-78 does not address the circumstances where one who was not convicted accepts a voluntary deportation in lieu of standing trial. Yet, C.B. No. 18-78 does encompass those circumstances where one is deported after serving only a partial sentence. Further, by having a registration process to build a database, the information can be shared with State and Municipal law enforcement.

Your Committee notes that C.B. No. 18-78 makes it a misdemeanor punishable by up to one year in prison for a criminal deportee to fail to register. The deportee is given 72 hours to register with authorities. In practice, the Department of Justice will be notified in advance of their return, and in most cases will be waiting to meet them upon arrival to effectuate their registration. In some cases, State police under the JLEA might meet the deportee to register them. Greater awareness will be created amongst authorities of all levels about potentially dangerous criminals who have been returned to the FSM.

The Department of Justice also testified that there is a computer database that would allow them to access complete records of the offender, beyond the murky information provided by the US. The cost of a subscription to this database is estimated to be a few thousand dollars per year. Your Committee believes Congress may wish to consider this subscription in a future budget bill.

Your Committee would like to offer the following amendment to C.B. No. 18-78 as follow:

1. Page 2, line 19, delete "Any person" and insert "Any FSM citizen" in lieu thereof.
2. Page 2, line 21, delete "72 hours" and insert "5 working days" in lieu thereof.
3. Page 2, Line 23, after "National Police" delete "," and insert "or State Police acting under the JLEA, allow themselves to be" in lieu thereof.
4. Page 5, Line 7, delete "into" and insert "not" in lieu thereof.

Your Committee is in accord with the intent and purpose of C.B. No. 18-78 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 as C.B. No. 18-78, C.D.1

Respectfully submitted,

/s/ Wesley W. Simina  
Wesley W. Simina, chairman

/s/ Berney Martin  
Berney Martin, vice chairman

Tiwiter Aritos, member

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

Dohsis Halbert, member

/s/ Bonsiano F. Nethon  
Bonsiano F. Nethon, member

/s/ Isaac V. Figir  
Isaac V. Figir, member  
w/Reservations & Do not concur!