



LC

*The President*  
*Palikir, Pohnpei*  
*Federated States of Micronesia*

PRESIDENTIAL COMM. NO. 18-223  
FSM CONGRESS

February 18, 2014

The Honorable Dohsis Halbert  
Speaker  
Congress of the Federated States of Micronesia  
Palikir, Pohnpei, FM 96941



Dear Speaker Halbert:

I am returning the following Congressional Act to become Public Law No. 18-43 pursuant to Article IX Section 22 of the FSM Constitution, without my signature:

Congressional Act No.18-44, entitled: "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."

There are a number of issues that I respectfully bring to the attention of Congress for your consideration.

First, section 633 establishes an obligation for convicted deportees, who were deported to the FSM prior to the entry of the Act, to have their information entered into the National Police registration system, failure of which constitutes a misdemeanor carrying a maximum of one year's imprisonment. This section imposes an impracticable obligation upon convicted deportees who have been in the FSM for several years and who are not aware of the passing of this Act. Such an obligation appears to be unfeasible.

Second, section 633 (3) also has the effect of making the law retrospective, as convicted deportees who were deported prior to the entry of the Act, and who fail to register, commit a misdemeanor punishable by a maximum of one year's imprisonment. Retrospective laws should not apply to criminal offenses as it violates the rule of law and subjects an individual to suffer punishment for an act or omission which was not unlawful at the time he or she committed it.

Third, section 633 (7) provides that the provisions of that section will take effect and become enforceable only once the National Police registration system is implemented by and at the cost of the National Government. However, I note that there is no appropriation providing financial assistance for the establishment of such registration system, which places a financial burden on the National Government's budget.

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In addition, I note that section 634 provides that deportees are to have their information removed from the registration system after a certain period of time, depending on the offense committed pursuant to section 634 (2). This appears to be an onerous obligation on the National Government and its resources as managers of the registration system, as well as being counterproductive to the purpose of having a national register in the first place.

Lastly, I also bring to the attention of Congress, the following formatting errors which will require amendment: on paragraph 21 of page 2, the word 'hours' should be removed, on paragraph 5 of page 4, the word 'tis' should read 'this', on paragraph 10 of page 5, the word 'role' should read 'sole', and on paragraph 5 of page 9, the word 'employee' should read 'employed'.

I once again respectfully urge Congress to seriously consider the aforementioned concerns.

With warm regards, I remain,

Sincerely,

  
Manny Mori  
President

Enclosure:

Xc: Chief Justice, FSM Supreme Court  
Secretary, Department of Justice  
Director, SBOC  
Legislative Counsel, CFSM  
Library, CFSM  
FSM PIO





CONGRESS OF THE FEDERATED STATES OF MICRONESIA

P.O. Box PS 3  
Palikir, Sokehs  
Pohnpei State, FM 96941  
Tel: (691) 320-2324 / 2338  
Fax: (691) 320-5122

Office of the Chief Clerk

February 05, 2014

His Excellency Manny Mori  
President  
Federated States of Micronesia  
Palikir, Pohnpei FM 96941

Dear President Mori:

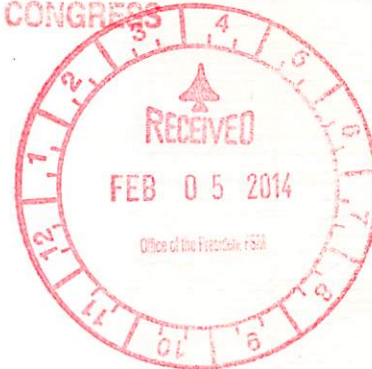
I have the honor to transmit herewith Congressional Act No. 18-44, "AN ACT TO FURTHER AMEND SECTION 104 OF TITLE 11 OF THE CODE OF THE FEDERATED STATES OF MICRONESIA, AS AMENDED BY PUBLIC LAWS NOS. 11-72 AND 11-76, AND CREATE A NEW SUBCHAPTER III UNDER CHAPTER 6 TO REQUIRE THE REGISTRATION OF DEPORTEES 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", which was passed by the Eighteenth Congress of the Federated States of Micronesia, Third Regular Session, 2014, by a two-thirds vote of all the State delegations as required and as duly certified.

Sincerely yours,

Liwiana Ramon Ioanis  
Chief Clerk, Congress of the  
Federated States of Micronesia

Enclosures

PRESIDENTIAL COMM. NO. 18-223  
FSM CONGRESS







PRESIDENTIAL COMM. NO. 18-223  
FSM CONGRESS

EIGHTEENTH CONGRESS OF THE  
FEDERATED STATES OF MICRONESIA  
THIRD REGULAR SESSION  
JANUARY 10 – FEBRUARY 01, 2014

PUBLIC LAW No. 18-43

## 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.

INTRODUCED BY SENATOR: FLORENCIO S. HARPER (BY REQUEST)

DATE: SEPTEMBER 25, 2013

REFERRED TO: COMMITTEE ON JUDICIARY AND GOVERNMENTAL OPERATIONS  
S.C.R. NO. 18-106 – JANUARY 22, 2014

FIRST READING: JANUARY 28, 2014

SECOND READING: JANUARY 29, 2014

A handwritten signature in blue ink, appearing to read "Liwiana Ramon Ioanis", is written over a horizontal line.

Liwiana Ramon Ioanis  
Chief Clerk, FSM Congress





CONGRESS OF THE FEDERATED STATES OF MICRONESIA

P.O. Box PS 3

Palikir, Sokehs

Pohnpei State, FM 96941

Tel: (691) 320-2324 / 2338

Fax: (691) 320-5122


Office of the Speaker


PRESIDENTIAL COMM. NO. 18-223  
FSM CONGRESS

ACT NO. 18-44

(CONGRESSIONAL BILL NO. 18-78, C.D.1,  
C.D.2, C.D.3)

We hereby certify that on January 30 the foregoing act passed Second and Final Reading of the Eighteenth Congress of the Federated States of Micronesia, Third Regular Session, 2014, by a two-thirds vote of all the State delegations as required under article IX, section 20, of the Constitution of the Federated States of Micronesia.

  
Dohsis Halbert  
Speaker  
Congress of the  
Federated States of Micronesia

  
Liwiana Ramon Ioanis  
Chief Clerk  
Congress of the  
Federated States of Micronesia

EIGHTEENTH CONGRESS OF THE FEDERATED STATES OF MICRONESIA

SECOND REGULAR SESSION, 2013

CONGRESSIONAL BILL No. 18-78, C.D.1,  
C.D.2, C.D.3

PUBLIC LAW No. 18-43

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.

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, as amended, is hereby further amended by creating a  
3 new subchapter III under chapter 6 entitled "Registration of  
4 Deportees".

5       Section 2. Title 11 of the Code of the Federated States of  
6 Micronesia, as amended, is hereby further amended by inserting a  
7 new section 631 under subchapter III of chapter 6 to read as  
8 follows:

9               "Section 631. Purpose of the subchapter. In view of  
10 the increasing number of deportees who are being  
11 returned to the Federated States of Micronesia for  
12 criminal convictions for crimes against persons,  
13 property, or against the public interest, and in view of  
14 the number of deportees being returned before their full  
15 sentence is completed in the United States or elsewhere,  
16 it is the purpose of this Act to register all returning  
17 deportees for the safety of the People of the Federated

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1 States of Micronesia."

2 Section 3. Title 11 of the Code of the Federated States of  
3 Micronesia, as amended, is hereby further amended by inserting a  
4 new section 631 under subchapter III of chapter 6 to read as  
5 follows:

6 "Section 632. Definition. As used in this section, the  
7 term "convicted" means, with respect to a person's  
8 felony or misdemeanor offense, a determination or guilt,  
9 which is the result of a trial or the entry of a plea of  
10 guilty or nolo contendere, regardless of whether  
11 adjudication is withheld."

12 Section 4. Title 11 of the Code of the Federated States of  
13 Micronesia, as amended, is hereby further amended by inserting a  
14 new section 633 under subchapter III of chapter 6 to read as  
15 follows:

16 "Section 633. Registration of deportees; exemptions;  
17 penalties.

18 (1) Any FSM citizen who has been convicted of a  
19 felony or misdemeanor in any foreign territory,  
20 commonwealth, or country shall, within 5 working days  
21 hours after entering the Federated States of Micronesia,  
22 register with the National Police or State Police acting  
23 under the JLEA allow them to be fingerprinted and  
24 photographed, and list the crime\_for which convicted,  
25 place of conviction, sentence imposed, if any, name,

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1 aliases, if any, address, and occupation.

2 (2) This section does not apply to an offender:

3 (a) Who has received a full pardon for the  
4 offense for which convicted; or

5 (b) Who has been lawfully released from  
6 incarceration or other sentence or supervision for a  
7 felony or misdemeanor conviction, whichever is later in  
8 time, for more than 5 years prior to such time for  
9 registration, unless the offender is a fugitive from  
10 justice on a felony charge or has been convicted of any  
11 offense since release from such incarceration or other  
12 sentence or supervision.

13 (3) Deportees who were deported to the Federated  
14 States of Micronesia prior to the entry of this Act  
15 shall have their information entered into the National  
16 Police registration system by the National Police  
17 together with a scanned copy of the departing documents.

18 (4) The failure of any such convicted person to  
19 comply with this section with regard to any offender not  
20 listed in subsection 3 of this section constitutes a  
21 misdemeanor punishable under chapter 1 and chapter 12 of  
22 this title.

23 (5) A person convicted under this section shall be  
24 imprisoned for not more than one year.

25 (6) Nothing in this section shall be construed to



1           affect any law of the Federated States of Micronesia  
2           relating to registration of criminals where the  
3           penalties for registration, notification, or reporting  
4           obligations are in addition to, or in excess of, those  
5           imposed by tis section.

6           (7) This section shall not take effect and may not be  
7           enforced until the data system for the registered  
8           database is in place and operative for all four States  
9           and the National Government with all costs of  
10          implementation and enforcement to be borne solely by the  
11          National Government."

12          Section 5. Title 11 of the Code of the Federated States of  
13          Micronesia, as amended, is hereby further amended by inserting new  
14          section 634 under subchapter III of Chapter 6 to read as follows:

15          "Section 634. Removal of registrees from the database.

16               (1) Registrees who have not been convicted of a  
17               subsequent crime, in the FSM or any other jurisdiction,  
18               from the date of their registration may be removed from  
19               the database under the timeframes set forth in this  
20               section.

21               (2) The timeframe for removal from the database is as  
22               follow:

23                       (a) For misdemeanors other than violent or  
24                       sexual crimes, a registree shall be removed from the  
25                       database after 5 years.

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1 (b) For felonies other than violent or sexual  
2 crimes, a registree shall be removed from the database  
3 after 7 years.

4 (c) For all other crimes not including homicide,  
5 mayhem, or sexual crimes, a registree shall be removed  
6 after 10 years.

7 (d) For all other crimes, after 10 years a  
8 registree may file a special petition to the Department  
9 of Justice to be removed from the database. Such  
10 petition shall be granted or denied under the role  
11 discretion of the Attorney General of the FSM. A  
12 registree shall not file such a special petition more  
13 than once every 3 years.

14 Section 6. Section 104 title 11 of the Code of the  
15 Federated States of Micronesia, as amended by Public Laws Nos.  
16 11-72 and 11-76, is hereby further amended to read as follows:

17 (1) 'Crime' means an act committed or omitted in  
18 violation of any law forbidding or commanding it, and  
19 which, upon conviction, is punishable by either or both  
20 of the following:

21 (a) imprisonment; or

22 (b) fine.

23 (2) 'Criminal negligence' means to engage in conduct  
24 which creates a substantial and unjustifiable risk of  
25 bodily injury to another, or to engage in conduct which

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1 constitutes gross deviation from the standard of care  
2 that a reasonable person would exercise, which conduct  
3 causes the criminal result.

4 (3) 'Felony' means any crime, which is punishable by  
5 imprisonment for more than one year.

6 (4) 'Intent' means acting with the conscious purpose  
7 to engage in the conduct specified, refrain from the  
8 omission specified or cause the specific result.

9 (5) 'Knowledge' means being aware of the nature of  
10 the conduct or omission or of the existing  
11 circumstances, or believing that a fact exists which  
12 brings the conduct or omission within the provisions of  
13 this code. It does not require any knowledge of the  
14 unlawfulness of such conduct or omission.

15 (6) 'Misdemeanor' means any crime, which is not a  
16 felony.

17 (7) 'National crime' means:

18 (a) any crime, which is

19 (i) inherently national in character and  
20 defined anywhere in this title;

21 (ii) otherwise a crime against the Federated  
22 States of Micronesia;

23 (b) A crime is 'inherently national in character'  
24 when any of the following is true:

25 (i) the crime is committed in the exclusive



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1 economic zone of the Federated States of Micronesia as  
2 defined in title 18 of this Code;

3 (ii) the crime is committed in the airspace  
4 above the territory comprising the Federated States of  
5 Micronesia as defined in article I, section 1 of the FSM  
6 Constitution;

7 (iii) the crime is committed on any airborne  
8 vehicle of the National Government, regardless of that  
9 vehicle's location;

10 (iv) the crime is committed on any watergoing  
11 vessel flagged and registered by the Federated States of  
12 Micronesia regardless of that watergoing vessel's  
13 location;

14 (v) the crime is committed on any watergoing  
15 vessel of the National Government regardless of that  
16 vessel's location;

17 (vi) the crime is committed against a national  
18 public servant in the course of, in connection with, or  
19 as a result of that person's employment or services;

20 (vii) the crime is committed against a former  
21 national public servant in retaliation for an act  
22 undertaken while that person was engaged in public  
23 service and within the scope of his or her official  
24 duties;

25 (viii) the crime is committed by a national

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1 public official or public servant while that person is  
2 engaged in his or her official duties or in violation of  
3 a fiduciary duty;

4 (ix) the crime involves property belonging to  
5 the National Government;

6 (x) the crime is committed against any person  
7 participating in or attempting to participate in a  
8 national election; or

9 (xi) a person has been convicted of a felony  
10 or misdemeanor in any foreign territory, commonwealth,  
11 or country and fails to register as a deportee whenever  
12 required by a law of the Federated States of Micronesia  
13 to register.

14 (8) 'Official proceeding' means any procedure  
15 conducted by or under the supervision of a judge,  
16 magistrate, judicial officer or other public official in  
17 relation to any alleged offense or proven offense, and  
18 includes an inquiry, investigation, or preliminary or  
19 final determination of facts.

20 (9) Person. The terms 'person', 'he', 'she',  
21 'accused' and 'defendant' include any natural or legal  
22 person, including but not limited to, a government,  
23 corporation or unincorporated association, or other  
24 organization.

25 (10) 'Principal' means a person who commits or

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1 participates in the commission of a crime and shall  
2 include a co-conspirator, accomplice or an aid or  
3 abettor.

4 (11) 'Public official' and 'public servant' means any  
5 person elected, appointed or employee to perform a  
6 governmental function on behalf of the Federated States  
7 of Micronesia, or any department, agency or branch  
8 thereof, or any allottee as defined in the Financial  
9 Management Act of 1979, in any official function under  
10 or by authority of any such agency or branch of  
11 government. The terms include, but are not limited to,  
12 legislators, judges, law enforcement officers, advisors  
13 and consultants, but do not include witnesses.

14 (12) 'Reckless' means to engage in conduct with a  
15 willful disregard for the safety of others or to engage  
16 in conduct in a manner that constitutes a gross  
17 deviation from the standard of care that a reasonable  
18 person would exercise in the situation.

19 (13) 'Serious bodily injury' means bodily injury which  
20 creates a high probability of death or which causes  
21 serious permanent disfigurement or which causes a  
22 permanent or protracted loss or impairment of the  
23 function of any bodily member or organ, or other bodily  
24 injury of like severity.

25 (14) 'Willfully' means to act with a purpose or



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1 willing to commit an act, or to make an omission.

2 It does not require any intent to violate the law, or to  
3 injure another, or to acquire any advantage.

4 (15) 'Property' shall mean both real and personal  
5 property."

6 Section 7. This act shall become law upon approval by the  
7 President of the Federated States of Micronesia or upon its  
8 becoming law without such approval.

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12 \_\_\_\_\_, 2014

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Manny Mori  
President  
Federated States of Micronesia

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