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

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

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

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

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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 a
4 term of one year from the date of appointment and may thereafter serve
5 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 applications
8 for parole. Three members of the board shall constitute a quorum.

9 Section 8. Disqualification.

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

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

14 (b) Financial relationship with the petitioner or victim;

15 (c) Established close friendship with the petitioner or
16 victim; or

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

20 (2) Whenever a particular member of the board withdraws or for
21 any other reason is not able to perform his duties, the President shall
22 be informed in writing by the member. The President shall then assign a
23 member of another State board to replace any disqualified member, or may
24 appoint an ad hoc member to serve during the disqualification, who other-
25 wise meets the qualifications listed in section 4.

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

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

11 Section 11. Application.

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

16 (a) The Office of the Attorney General for the Federated
17 States of Micronesia;

18 (b) The office of the attorney general for any State
19 concerned;

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

21 (d) The victim or his family; and

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

24 (2) Within 7 days of receipt of the petition, the chairman
25 shall write to the President acknowledging receipt of the petition and

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1 informing the President of the date of the parole hearing. If for any
2 reason the hearing date is rescheduled, the President will be informed in
3 writing of the change by the chairman.

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

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

23 Section 14. Criteria.

24 (1) Whenever the board considers the release of a prisoner on
25 parole, the board is authorized to recommend release if a majority of

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1 the entire board is of the opinion that:

2 (a) The release is compatible with public safety and
3 security;

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

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

8 (d) The crime for which the prisoner stands convicted
9 was not committed at a time when the prisoner was released on a previous
10 parole.

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

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

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

19 (c) The prisoner's personality, including his maturity,
20 stability, sense of responsibility, and any apparent development in his
21 personality which may promote or hinder his conformity to law;

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

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

25 (f) The prisoner's employment history, his skills, and

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1 the stability of his past employment or occupation;

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

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

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

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

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

11 (l) The prisoner's conduct in the institution, in-
12 cluding particularly whether he has taken advantage of the opportunities
13 for self-improvement afforded by the institutional program, whether he
14 has been punished for misconduct within 6 months prior to his hearing
15 or reconsideration for parole release, whether he has forfeited any
16 reductions of term during his period of imprisonment, and whether such
17 reductions have been restored at the time of hearing or reconsideration
18 and;

19 (m) The prisoner's conduct and attitude during any
20 previous experiences of probation or parole and the recency of such
21 experience..

22 Section 15. Recommendation of the board. The board shall render
23 its written recommendation regarding a prisoner's release on parole
24 within 10 days after the hearing. The recommendation shall be by
25 majority vote of the entire board. In its decision, the board shall

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1 either recommend the prisoner's release date and conditions of parole or
2 it shall recommend the deferral of the case for later consideration. If
3 the board recommends a release date, such date shall not be more than 3
4 months from the date of the prisoner's parole hearing. If the board
5 recommends deferral of the case for later consideration, it may recommend
6 a date before which reconsideration will not be granted without a
7 substantial change in circumstances. In either event, the prisoner shall
8 be promptly notified of the decision of the board. The recommendations
9 of the board shall be promptly transmitted to the President for his
10 action. Any member dissenting from the recommendation may submit a
11 minority report. The petitioner shall be given a copy of the recommenda-
12 tion and may within 14 days present a written comment on the recommenda-
13 tion to the President.

14 Section 16. Conditions of parole. When a prisoner is released
15 on parole, it shall be required as a condition of parole that he refrain
16 from engaging in criminal conduct. It may also be required, either at
17 the time of his release on parole or at any time and from time to time
18 while he remains under parole, that he conform to any of the following
19 conditions of parole:

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

25 Section 17. Certificate of parole. If the President grants the

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1 petitioner a parole, a Certificate of Parole will be given to the
2 parolee which shall incorporate all conditions of the parole. Before
3 released on parole, a parolee shall sign the certificate and agree to
4 the conditions of the parole. A copy of the Certificate of Parole
5 shall be given to:

6 (1) The Office of the Attorney General for the Federated
7 States of Micronesia;

8 (2) The office of the attorney general for any State concerned;
9 and

10 (3) The chief of police for any State concerned.

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

15 Section 19. Procedure for revocation. At any time when a member
16 of the board, the Attorney General of the Federated States of Micronesia,
17 or a State attorney general has reasonable cause to believe that any
18 of the conditions of parole specified in the Certificate of Parole have
19 been violated by the parolee, application may be made to the Trial
20 Division of the Supreme Court of the Federated States of Micronesia for
21 a revocation of parole, and may be accompanied by a request for a
22 warrant for the apprehension and holding of the parolee in custody
23 pending a determination on revocation of his parole. Upon consideration
24 of the application, the Court shall issue either an arrest warrant or
25 summons for the parolee. At the initial appearance of the parolee,

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1 the Court shall provide a copy of the application for revocation of parole
2 to the parolee, appoint counsel, and set a date for a parole revocation
3 hearing. The parolee may admit or deny the violation charged. If the
4 parolee admits the violation, or after a hearing the Court finds, to a
5 preponderance of the evidence, that the parolee has violated the conditions
6 of parole, then the Court shall determine the effect of the violation on
7 the parole.

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

11 (1) Deem the violation de minimus and allow the parole to
12 continue;

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

15 (3) Suspend the parole for a temporary period not to exceed
16 60 days, recommitting the parolee for that period of time; or

17 (4) Revoke the parole.

18 Section 21. Effect of revocation.

19 (1) A parolee whose parole is revoked for violation of the
20 conditions of parole shall be recommitted for the remainder of the term
21 of sentence. The remainder of the term of sentence shall be computed
22 by subtracting the period served prior to the granting of parole from the
23 original sentence. Reductions previously earned for good time and any
24 other credits prior to the parole shall also be recredited.

25 (2) A parolee whose parole has been revoked may be considered

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1 by the President for reparole after serving a further period of imprison-
2 ment of 6 months.

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

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

14 Section 23. Effective date. This act shall become law upon approval
15 by the President of the Federated States of Micronesia or upon its
16 becoming law without such approval.

17
18 Date: Oct. 27/83

Introduced by: Claude H. Phillip
Claude Phillip