

A BILL FOR AN ACT

To amend title 12 of the Code of the Federated States of Micronesia by repealing chapter 10 in its entirety and adding a new chapter 10 to establish procedures for the surrender of persons who have committed crimes in foreign countries; by adding a new chapter 11 to establish procedures for the transfer of offenders to and from foreign countries; by renumbering chapters 11, 12, and 13; and for other purposes.

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

1 Section 1. Chapter 10 of title 12 of the Code of the Federated
2 States of Micronesia is hereby repealed in its entirety.

3 Section 2. Title 12 of the Code of the Federated States of
4 Micronesia is hereby amended by adding a new section 1001 of chapter
5 10 to read as follows:

6 "Section 1001. Scope and limitation of chapter. The
7 provisions of this chapter relating to the surrender of
8 persons who have committed crimes in foreign countries
9 shall continue in force only during the existence of any
10 extradition agreement with such foreign government and
11 shall be read in light of and consistent with the
12 extradition agreement pursuant to which a request for
13 extradition is made."

14 Section 3. Title 12 of the Code of the Federated States of
15 Micronesia is hereby amended by adding a new section 1002 of chapter
16 10 to read as follows:

17 "Section 1002. Fugitives from foreign country to Federated
18 States of Micronesia. Whenever there is an agreement for
19 extradition between the Federated States of Micronesia and
20 any foreign government, any Federated States of Micronesia
21 justice or any judge authorized to do so by a Federated
22 States of Micronesia court may, upon complaint made under
23 oath charging any person found within his jurisdiction with
24 having committed within the jurisdiction of any such
25 foreign government any of the crimes provided for by such

1 agreement, issue his warrant for the apprehension of the
 2 person so charged, that he may be brought before such
 3 justice or judge, to the end that the evidence of
 4 criminality may be heard and considered. If, on such
 5 hearing, he deems the evidence sufficient to sustain the
 6 charge under the provisions of the proper treaty or
 7 convention, he shall certify the same, together with a copy
 8 of all the testimony taken before him, to the Secretary of
 9 External Affairs, that a warrant may issue upon the
 10 requisition of the proper authorities of such foreign
 11 government, for the surrender of such person, according to
 12 the stipulations of the treaty or convention; and he shall
 13 issue his warrant for the commitment of the person so
 14 charged to the proper jail, there to remain until such
 15 surrender shall be made."

16 Section 4. Title 12 of the Code of the Federated States of
 17 Micronesia is hereby amended by adding a new section 1003 of chapter
 18 10 to read as follows:

19 "Section 1003. Secretary of External Affairs to surrender
 20 fugitive. The Secretary of External Affairs may order the
 21 person committed under section 1002 of this title to be
 22 delivered to any authorized agent of such foreign
 23 government, to be tried for the offenses of which charged.
 24 Such agent may hold such person in custody, and take him to
 25 the territory of such foreign government, pursuant to such

1 treaty. A person so accused who escapes may be retaken in
2 the same manner as any person accused of any offense."

3 Section 5. Title 12 of the Code of the Federated States of
4 Micronesia is hereby amended by adding a new section 1004 of chapter
5 10 to read as follows:

6 "Section 1004. Time of commitment pending extradition.
7 Whenever any person who is committed for rendition to a
8 foreign government to remain until delivered up in
9 pursuance of a requisition, is not so delivered up and
10 conveyed out of the Federated States of Micronesia within 2
11 calendar months after such commitment, over and above the
12 time actually required to convey the prisoner from the jail
13 to which he was committed, by the readiest way, out of the
14 Federated States of Micronesia, any Federated States of
15 Micronesia justice or any judge authorized to do so by a
16 Federated States of Micronesia court upon application made
17 to him by or on behalf of the person so committed, and upon
18 proof made to him that reasonable notice of the intention
19 to make such application has been given to the Secretary of
20 External Affairs, may order the person so committed to be
21 discharged out of custody, unless sufficient cause is shown
22 to such judge why such discharge ought not to be ordered."

23 Section 6. Title 12 of the Code of the Federated States of
24 Micronesia is hereby amended by adding a new section 1005 of chapter
25 10 to read as follows:

1 "Section 1005. Place and character of hearing. Hearings
2 in cases of extradition under an extradition agreement
3 shall be held on land, publicly, and in a room or office
4 easily accessible to the public."

5 Section 7. Title 12 of the Code of the Federated States of
6 Micronesia is hereby amended by adding a new section 1006 of chapter
7 10 to read as follows:

8 "Section 1006. Evidence on hearing. Depositions,
9 warrants, or other papers or copies thereof offered in
10 evidence upon the hearing of any extradition case shall be
11 received and admitted as evidence on such hearing for all
12 the purposes of such hearing if they shall be properly and
13 legally authenticated so as to entitle them to be received
14 for similar purposes by the tribunals of the foreign
15 country from which the accused party shall have escaped,
16 and the certificate of the principal representative or
17 liaison officer of the Federated States of Micronesia
18 resident in such foreign country, if any, shall be proof
19 that the same, so offered, are authenticated in the manner
20 required."

21 Section 8. Title 12 of the Code of the Federated States of
22 Micronesia is hereby amended by adding a new section 1007 of chapter
23 10 to read as follows:

24 "Section 1007. Witnesses for indigent fugitives. On the
25 hearing of any case under a claim of extradition by a

1 foreign government, upon affidavit being filed by the person
2 charged setting forth that there are witnesses whose
3 evidence is material to his defense, that he cannot safely
4 go to trial without them, what he expects to prove by each
5 of them, and that he is not possessed of sufficient means,
6 and is actually unable to pay the fees of such witnesses,
7 the justice or judge hearing the matter may order that such
8 witnesses be subpoenaed; and the costs incurred by the
9 process, and the fees of witnesses, shall be paid in the
10 same manner as in the case of witnesses subpoenaed in
11 behalf of the Federated States of Micronesia."

12 Section 9. Title 12 of the Code of the Federated States of
13 Micronesia is hereby amended by adding a new section 1008 of chapter
14 10 to read as follows:

15 "Section 1008. Protection of accused. Whenever any person
16 is delivered by any foreign government to an agent of the
17 Federated States of Micronesia, for the purpose of being
18 brought within the Federated States of Micronesia and tried
19 for any offense of which he is duly accused, the Attorney
20 General shall have power to take all necessary measures for
21 the transportation and safekeeping of such accused person,
22 and for his security against lawless violence, until the
23 final conclusion of his trial for the offenses specified in
24 the warrant of extradition, and until his final discharge
25 from custody or imprisonment for or on account of such

1 offenses, and for a reasonable time thereafter."

2 Section 10. Title 12 of the Code of the Federated States of
3 Micronesia is hereby amended by adding a new section 1009 of chapter
4 10 to read as follows:

5 "Section 1009. Receiving and transporting offenders. An
6 officer of the Division of Security and Investigation or a
7 State police officer authorized by the Attorney General
8 shall receive, in behalf of the Federated States of
9 Micronesia, the delivery, by a foreign government, of any
10 person accused of a crime committed within the Federated
11 States of Micronesia, and shall convey him to the place of
12 his trial."

13 Section 11. Title 12 of the Code of the Federated States of
14 Micronesia is hereby amended by adding a new section 1010 of chapter
15 10 to read as follows:

16 "Section 1010. Payment of fees and costs.
17 (1) All costs or expenses incurred in any extradition
18 proceeding in apprehending, securing, and transmitting a
19 fugitive shall be paid by the demanding authority. All
20 witness fees and costs of every nature in cases of
21 international extradition shall be certified by the justice
22 or judge before whom the hearing shall take place to the
23 Attorney General, and the same shall be paid out of
24 appropriations to defray the expenses of the judiciary or
25 the Office of the Attorney General as the case may be.

1 (2) The Attorney General shall certify to the
2 Secretary of External Affairs the amounts to be paid to the
3 Federated States of Micronesia on account of said fees and
4 costs in extradition cases by the foreign government
5 requesting the extradition, and the Secretary of External
6 Affairs shall cause said amounts to be collected and
7 transmitted to the Attorney General for deposit in the
8 General Fund of the Federated States of Micronesia."

9 Section 12. Title 12 of the Code of the Federated States of
10 Micronesia is hereby amended by adding a new section 1101 of chapter
11 11 to read as follows:

12 "Section 1101. Scope and limitation of chapter.

13 (1) The provisions of this chapter relating to the
14 transfer of offenders shall be applicable only when an
15 international agreement providing for such a transfer is in
16 force, and shall only be applicable to transfers of
17 offenders to and from a foreign country pursuant to such an
18 agreement. The provisions of this chapter shall be read in
19 light of and consistent with the international agreement
20 pursuant to which a request for transfer is made. A
21 sentence imposed by a foreign country upon an offender who
22 is subsequently transferred to the Federated States of
23 Micronesia pursuant to an international agreement shall be
24 subject to being fully executed in the Federated States of
25 Micronesia even though the international agreement under

which the offender was transferred is no longer in force.

(2) An offender may be transferred from the Federated States of Micronesia pursuant to this chapter only to a country of which the offender is a citizen or national. Only an offender who is a citizen or national of the Federated States of Micronesia may be transferred to the Federated States of Micronesia. An offender may be transferred to or from the Federated States of Micronesia only with the offender's consent, and only if the offense for which the offender was sentenced satisfies the requirement of double criminality as defined in section 1102 of this title. Once an offender's consent to transfer has been verified by a verifying officer, that consent shall be irrevocable. If at the time of transfer the offender is under 18 years of age the transfer shall not be accomplished unless consent to the transfer is given by a parent or guardian or by an appropriate court of the sentencing country.

(3) An offender shall not be transferred to or from the Federated States of Micronesia if a proceeding by way of appeal or of collateral attack upon the conviction or sentence is pending.

(4) The Federated States of Micronesia upon receiving notice from the country which imposed the sentence that the offender has been granted a pardon, commutation, or

1 amnesty, or that there has been an ameliorating
2 modification or a revocation of the sentence shall give
3 the offender the benefit of the action taken by the
4 sentencing country."

5 Section 13. Title 12 of the Code of the Federated States of
6 Micronesia is hereby amended by adding a new section 1102 of chapter
7 11 to read as follows:

8 "Section 1102. Definitions. As used in this chapter:

9 (1) 'Double criminality' means that at the time of
10 transfer of an offender the offense for which he has been
11 sentenced is still an offense in the transferring country
12 and is also an offense in the receiving country. With
13 regard to a country which has a federal form of government,
14 an act shall be deemed to be an offense in that country if
15 it is an offense under the federal laws or the laws of any
16 state or province thereof;

17 (2) 'Imprisonment' means a penalty imposed by a court
18 under which the individual is confined to an institution;

19 (3) 'International agreement' means an agreement
20 concluded by the Federated States of Micronesia with
21 another nation or nations pursuant to which an offender
22 sentenced in the courts of one country may be transferred
23 to the country of which he is a citizen or national for the
24 purpose of serving the sentence;

25 (4) 'Juvenile' means a person who is under 18 years

1 of age;

2 (5) 'Juvenile delinquency' means:

3 (a) A violation of the laws of the Federated
4 States of Micronesia or a State thereof or of a foreign
5 country committed by a juvenile which would have been a
6 crime if committed by an adult; or

7 (b) Noncriminal acts committed by a juvenile for
8 which supervision or treatment by juvenile authorities of
9 the Federated States of Micronesia, a State thereof, or of
10 the foreign country concerned is authorized;

11 (6) 'Offender' means a person who has been convicted
12 of an offense or who has been adjudged to have committed an
13 act of juvenile delinquency;

14 (7) 'Parole' means any form of release of an offender
15 from imprisonment to the community by a releasing authority
16 prior to the expiration of his sentence, subject to
17 conditions imposed by the releasing authority and to its
18 supervision;

19 (8) 'Probation' means any form of sentence to a
20 penalty of imprisonment the execution of which is
21 suspended and the offender is permitted to remain at liberty
22 under supervision and subject to conditions for the breach
23 of which the suspended penalty of imprisonment may be
24 ordered executed;

25 (9) 'Sentence' means not only the penalty imposed but

1 also the judgment of conviction in a criminal case or a
2 judgment of acquittal in the same proceeding, or the
3 adjudication of delinquency in a juvenile delinquency
4 proceeding or dismissal of allegations of delinquency in
5 the same proceedings;

6 (10) 'State' means any State of the Federated States
7 of Micronesia; and

8 (11) 'Transfer' means a transfer of an individual for
9 the purpose of the execution in one country of a sentence
10 imposed by the courts of another country."

11 Section 14. Title 12 of the Code of the Federated States of
12 Micronesia is hereby amended by adding a new section 1103 of chapter
13 11 to read as follows:

14 "Section 1103. Authority of the Attorney General. The
15 Attorney General is authorized:

16 (1) To act on behalf of the Federated States of
17 Micronesia as the authority referred to in an international
18 agreement;

19 (2) To receive custody of offenders under a sentence
20 of imprisonment, on parole, or on probation who are
21 citizens or nationals of the Federated States of Micronesia
22 transferred from foreign countries and as appropriate
23 confine them in penal or correctional institutions, or
24 assign them to the probation authorities for supervision;

25 (3) To transfer offenders under a sentence of

imprisonment or on probation to the foreign countries of
which they are citizens or nationals;

(4) To make regulations for the proper implementation
of such treaties in accordance with this chapter and to
make regulations to implement this chapter;

(5) To render to foreign countries and to receive
from them the certifications and reports required to be
made under such treaties;

(6) To make arrangements by agreement with the states
for the transfer of offenders in their custody who are
citizens or nationals of foreign countries to the foreign
countries of which they are citizens or nationals and for
the confinement, where appropriate, in state institutions
of offenders transferred to the Federated States of
Micronesia;

(7) To make agreements and establish regulations for
the transportation through the territory of the Federated
States of Micronesia of offenders convicted in a foreign
country who are being transported to a third country for
the execution of their sentences, the expenses of which
shall be paid by the country requesting the transportation;

(8) To make agreements with the appropriate
authorities of a foreign country and to issue regulations
for the transfer and treatment of juveniles who are
transferred pursuant to an international agreement, the

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1 expenses of which shall be paid by the country of which the
2 juvenile is a citizen or national;

3 (9) In concert with the Director of the Office of
4 Health Services, to make arrangements with the appropriate
5 authorities of a foreign country and to issue regulations
6 for the transfer and treatment of individuals who are
7 accused of an offense but who have been determined to be
8 mentally ill, the expenses of which shall be paid by the
9 country of which such person is a citizen or national;

10 (10) To receive, on behalf of the Federated States of
11 Micronesia, the delivery by a foreign government of any
12 citizen or national of the Federated States of Micronesia
13 being transferred to the Federated States of Micronesia for
14 the purpose of serving a sentence imposed by the courts of
15 the foreign country, and to convey him within the Federated
16 States of Micronesia."

17 Section 15. Title 12 of the Code of the Federated States of
18 Micronesia is hereby amended by adding a new section 1104 of chapter
19 11 to read as follows:

20 "Section 1104. Applicability of Federated States of
21 Micronesia laws. All laws of the Federated States of
22 Micronesia, as appropriate; pertaining to prisoners,
23 probationers, and juvenile offenders shall be applicable to
24 offenders transferred to the Federated States of
25 Micronesia, unless an international agreement or this

1 chapter provides otherwise."

2 Section 16. Title 12 of the Code of the Federated States of
3 Micronesia is hereby amended by adding a new section 1105 of chapter
4 11 to read as follows:

5 "Section 1105. Transfer of offenders on probation.

6 (1) Prior to consenting to the transfer to the
7 Federated States of Micronesia of an offender who is on
8 probation, the Attorney General shall determine that the
9 appropriate Federated States of Micronesia court is willing
10 to undertake the supervision of the offender.

11 (2) Upon the receipt of an offender on probation from
12 the authorities of a foreign country, the Attorney General
13 shall cause the offender to be brought before the Federated
14 States of Micronesia court which is to exercise supervision
15 over the offender.

16 (3) The court shall place the offender under the
17 supervision of a justice ombudsman of the court. The
18 offender shall be supervised by a justice ombudsman, under
19 such conditions as are deemed appropriate by the court as
20 though probation had been imposed by the Federated States
21 of Micronesia court.

22 (4) The probation may be revoked in accordance with
23 the Rules of Criminal Procedure for the Trial Division of
24 the Supreme Court of the Federated States of Micronesia. A
25 violation of the conditions of probation shall constitute

60

1 grounds for revocation. If probation is revoked the
2 suspended sentence imposed by the sentencing court shall be
3 executed.

4 (5) The provisions of section 1106 of this title
5 shall be applicable following a revocation of probation.

6 (6) Prior to consenting to the transfer from the
7 Federated States of Micronesia of an offender who is on
8 probation, the Attorney General shall obtain the assent of
9 the court exercising jurisdiction over the probationer."

10 Section 17. Title 12 of the Code of the Federated States of
11 Micronesia is hereby amended by adding a new section 1106 of chapter
12 11 to read as follows:

13 "Section 1106. Transfer of offenders serving sentence of
14 imprisonment.

15 (1) Except as provided elsewhere in this section, an
16 offender serving a sentence of imprisonment in a foreign
17 country transferred to the custody of the Attorney General
18 shall remain in the custody of the Attorney General under
19 the same conditions and for the same period of time as an
20 offender who had been committed to the custody of the
21 Attorney General by a court of the Federated States of
22 Micronesia for the period of time imposed by the sentencing
23 court.

24 (2) The transferred offender shall be entitled to all
25 credits toward the service of the sentence which had been

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1 given by the transferring country for time served as of the
2 time of the transfer.

3 (3) Any sentence for an offense against the Federated
4 States of Micronesia, imposed while the transferred
5 offender is serving the sentence of imprisonment imposed in
6 a foreign country, shall be aggregated with the foreign
7 sentence, in the same manner as if the foreign sentence was
8 one imposed by a Federated States of Micronesia court for
9 an offense against the Federated States of Micronesia."

10 Section 18. Title 12 of the Code of the Federated States of
11 Micronesia is hereby amended by adding a new section 1107 of chapter
12 11 to read as follows:

13 "Section 1107. Transfer of offenders on parole. Upon the
14 receipt of an offender who is on parole from the
15 authorities of a foreign country, the Attorney General
16 shall assign the offender to a justice ombudsman of the
17 appropriate Federated States of Micronesia court for
18 supervision."

19 Section 19. Title 12 of the Code of the Federated States of
20 Micronesia is hereby amended by adding a new section 1108 of chapter
21 11 to read as follows:

22 "Section 1108. Verification of consent of offender to
23 transfer from the Federated States of Micronesia.

24 (1) Prior to the transfer of an offender from the
25 Federated States of Micronesia, the fact that the offender

1 consents to such transfer and that such consent is
2 voluntary and with full knowledge of the consequences
3 thereof shall be verified by a Federated States of
4 Micronesia justice or a judge authorized to do so by a
5 Federated States of Micronesia court.

6 (2) The verifying officer shall inquire of the
7 offender whether he understands and agrees that the
8 transfer will be subject to the following conditions:

9 (a) Only the appropriate courts in the Federated
10 States of Micronesia may modify or set aside the conviction
11 or sentence, and any proceedings seeking such action may
12 only be brought in such courts;

13 (b) The sentence shall be carried out according
14 to the laws of the country to which he is to be transferred
15 and that those laws are subject to change;

16 (c) If a court in the country to which he is
17 transferred should determine upon a proceeding initiated by
18 him or on his behalf that his transfer was not accomplished
19 in accordance with the international agreement or laws of
20 that country, he may be returned to the Federated States of
21 Micronesia for the purpose of completing the sentence if
22 the Federated States of Micronesia requests his return; and

23 (d) His consent to transfer, once verified by
24 the verifying officer, is irrevocable.

25 (3) The verifying officer, before determining that an

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1 offender's consent is voluntary and given with full
2 knowledge of the consequences, shall advise the offender of
3 his right to consult with counsel as provided by this
4 chapter. If the offender wishes to consult with counsel
5 before giving his consent, he shall be advised that the
6 proceedings will be continued until he has had an
7 opportunity to consult with counsel.

8 (4) The verifying officer shall make the necessary
9 inquiries to determine that the offender's consent is
10 voluntary and not the result of any promises, threats, or
11 other improper inducements, and that the offender accepts
12 the transfer subject to the conditions set forth in
13 subsection (2) of this section. The consent and acceptance
14 shall be on an appropriate form prescribed by the Attorney
15 General.

16 (5) The proceedings shall be taken down by a reporter
17 or recorded by suitable recording equipment. The Attorney
18 General shall maintain custody of the records."

19 Section 20. Title 12 of the Code of the Federated States of
20 Micronesia is hereby amended by adding a new section 1109 of chapter
21 11 to read as follows:

22 "Section 1109. Verification of consent of offender to
23 transfer to the Federated States of Micronesia.

24 (1) Prior to the transfer of an offender to the
25 Federated States of Micronesia, the fact that the offender

5-83

1 consents to such transfer and that such consent is
2 voluntary and with full knowledge of the consequences
3 thereof shall be verified in the country in which the
4 sentence was imposed by a Federated States of Micronesia
5 justice, a judge authorized to do so by a Federated States
6 of Micronesia court, or a person specifically designated by
7 a Federated States of Micronesia justice. The designation
8 of a citizen who is an employee or officer of a department
9 or agency of the Federated States of Micronesia shall be
10 with the approval of the head of that department or agency.

11 (2) The verifying officer shall inquire of the
12 offender whether he understands and agrees that the
13 transfer will be subject to the following conditions:

14 (a) Only the country in which he was convicted
15 and sentenced can modify or set aside the conviction or
16 sentence, and any proceedings seeking such action may only
17 be brought in that country;

18 (b) The sentence shall be carried out according
19 to the laws of the Federated States of Micronesia and that
20 those laws are subject to change;

21 (c) If a Federated States of Micronesia court
22 should determine upon a proceeding initiated by him or on
23 his behalf that his transfer was not accomplished in
24 accordance with the international agreement or laws of the
25 Federated States of Micronesia, he may be returned to the

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1 country which imposed the sentence for the purpose of
2 completing the sentence if that country requests his
3 return; and

4 (d) His consent to transfer, once verified by
5 the verifying officer, is irrevocable.

6 (3) The verifying officer, before determining that an
7 offender's consent is voluntary and given with full
8 knowledge of the consequences, shall advise the offender of
9 his right to consult with counsel as provided by this
10 chapter. If the offender wishes to consult with counsel
11 before giving his consent, he shall be advised that the
12 proceedings will be continued until he has had an
13 opportunity to consult with counsel.

14 (4) The verifying officer shall make the necessary
15 inquiries to determine that the offender's consent is
16 voluntary and not the result of any promises, threats, or
17 other improper inducements, and that the offender accepts
18 the transfer subject to the conditions set forth in
19 subsection (2). The consent and acceptance shall be on an
20 appropriate form prescribed by the Attorney General.

21 (5) The proceedings shall be taken down by a reporter
22 or recorded by suitable recording equipment. The Attorney
23 General shall maintain custody of the records."

24 Section 21. Title 12 of the Code of the Federated States of
25 Micronesia is hereby amended by adding a new section 1110 of chapter

1 11 to read as follows:

2 "Section 1110. Right to counsel; Appointment of counsel.

3 In proceedings to verify consent of an offender for
4 transfer, the offender shall have the right to advice of
5 counsel. If the offender is financially unable to obtain
6 counsel:

7 (1) Counsel for proceedings conducted under section
8 1108 of this title shall be provided in the same manner as
9 provided to any person accused of any offense; and

10 (2) Counsel for proceedings conducted under section
11 1109 of this title shall be appointed by the verifying
12 officer pursuant to such rules as may be prescribed by the
13 Chief Justice of the Supreme Court of the Federated States
14 of Micronesia. The Attorney General shall make payments of
15 fees and expenses of the appointed counsel, in amounts
16 approved by the verifying officer, which shall not exceed
17 the amounts authorized under the rules promulgated by the
18 Chief Justice. Payment in excess of the maximum amount
19 authorized may be made for extended or complex
20 representation whenever the verifying officer certifies
21 that the amount of the excess payment is necessary to
22 provide fair compensation, and the payment is approved by
23 the Chief Justice of the Supreme Court of the Federated
24 States of Micronesia. If counsel from other agencies in
25 any branch of the Government are appointed, the Attorney

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1 General shall make advance payments of travel and
2 transportation expenses to appointed counsel or reimburse
3 the employing agency for travel and transportation
4 expenses."

5 Section 22. Title 12 of the Code of the Federated States of
6 Micronesia is hereby amended by adding a new section 1111 of chapter
7 11 to read as follows:

8 "Section 1111. Transfer of juveniles. An offender
9 transferred to the Federated States of Micronesia because
10 of an act which would have been an act of juvenile
11 delinquency had it been committed in the Federated States
12 of Micronesia or any State thereof shall be subject to the
13 provisions of chapter 11 of title 12 of the Code of the
14 Federated States of Micronesia except as otherwise provided
15 in the relevant international agreement or in an agreement
16 between the Attorney General and the authority of the
17 foreign country concluded pursuant to an international
18 agreement."

19 Section 23. Title 12 of the Code of the Federated States of
20 Micronesia is hereby amended by adding a new section 1112 of chapter
21 11 to read as follows:

22 "Section 1112. Prosecution barred by foreign conviction.
23 An offender transferred to the Federated States of
24 Micronesia shall not be detained, prosecuted, tried, or
25 sentenced by the Federated States of Micronesia, or any

700

1 State thereof for any offense the prosecution of which
2 would have been barred if the sentence upon which the
3 transfer was based had been by a court of the jurisdiction
4 seeking to prosecute the transferred offender, or if
5 prosecution would have been barred by the laws of the
6 jurisdiction seeking to prosecute the transferred offender
7 if the sentence on which the transfer was based had been
8 issued by a Federated States of Micronesia court or by a
9 court of a State of the Federated States of Micronesia."

10 Section 24. Title 12 of the Code of the Federated States of
11 Micronesia is hereby amended by adding a new section 1113 of chapter
12 11 to read as follows:

13 "Section 1113. Loss of rights; Disqualification. An
14 offender transferred to the Federated States of Micronesia
15 to serve a sentence imposed by a foreign court shall not
16 incur any loss of civil, political, or civic rights nor
17 incur any disqualification other than those which under the
18 laws of the Federated States of Micronesia or of the State
19 in which the issue arises would result from the fact of the
20 conviction in the foreign country."

21 Section 25. Title 12 of the Code of the Federated States of
22 Micronesia is hereby amended by adding a new section 1114 of chapter
23 11 to read as follows:

24 "Section 1114. Status of alien offender transferred to a
25 foreign country.

9760

(1) An alien who is the subject of an order of deportation from the Federated States of Micronesia pursuant to chapter 1 of title 50 of the Code of the Federated States of Micronesia, who is transferred to a foreign country pursuant to this chapter shall be deemed for all purposes to have been deported from this country.

(2) An alien who is the subject of an order of exclusion and deportation from the Federated States of Micronesia pursuant to chapter 1 of title 50 of the Code of the Federated States of Micronesia, who is transferred to a foreign country pursuant to this chapter shall be deemed for all purposes to have been excluded from admission and deported from the Federated States of Micronesia."

Section 26. Title 12 of the Code of the Federated States of Micronesia is hereby amended by adding a new section 1115 of chapter 11 to read as follows:

"Section 1115. Return of transferred offenders.

(1) Upon a final decision by a Federated States of Micronesia court that the transfer of the offender to the Federated States of Micronesia was not in accordance with an international agreement or the laws of the Federated States of Micronesia and ordering the offender released from serving the sentence in the Federated States of Micronesia the offender may be returned to the country from which he was transferred to complete the sentence if the

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1 country in which the sentence was imposed requests his
2 return. The Attorney General shall notify the appropriate
3 authority of the country which imposed the sentence within
4 10 days, of a final decision of a court of the Federated
5 States of Micronesia ordering the offender released. The
6 notification shall specify the time within which the
7 sentencing country must request the return of the offender
8 which shall be no longer than 30 days.

9 (2) Upon receiving a request from the sentencing
10 country that the offender ordered released be returned for
11 the completion of his sentence, the Attorney General may
12 file a complaint for the return of the offender with any
13 Federated States of Micronesia justice or any judge
14 authorized by a Federated States of Micronesia court,
15 within whose jurisdiction the offender is found. The
16 complaint shall be upon oath and supported by affidavits
17 establishing that the offender was convicted and sentenced
18 by the courts of the country to which his return is
19 requested; the offender was transferred to the Federated
20 States of Micronesia for the execution of his sentence; the
21 offender was ordered released by a court of the Federated
22 States of Micronesia before he had completed his sentence
23 because the transfer of the offender was not in accordance
24 with the international agreement or the laws of the
25 Federated States of Micronesia; and that the sentencing

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1 country has requested that he be returned for the
2 completion of the sentence. There shall be attached to the
3 complaint a copy of the sentence of the sentencing court
4 and of the decision of the court which ordered the offender
5 released.

6 (3) A summons or a warrant shall be issued by the
7 justice or judge ordering the offender to appear or to be
8 brought before the issuing authority. If the justice or
9 judge finds that the person before him is the offender
10 described in the complaint and that the facts alleged in
11 the complaint are true, he shall issue a warrant for
12 commitment of the offender to the custody of the Attorney
13 General until surrender shall be made. The findings and a
14 copy of all the testimony taken before him and of all
15 documents introduced before him shall be transmitted to the
16 Secretary of External Affairs, that a return warrant may
17 issue upon the requisition of the proper authorities of
18 the sentencing country, for the surrender of the offender.

19 (4) The complaint referred to in subsection (2) of
20 this section must be filed within 60 days from the date on
21 which the decision ordering the release of the offender
22 becomes final.

23 (5) An offender returned under this section shall be
24 subject to the jurisdiction of the country to which he is
25 returned for all purposes.

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1 (6) The return of an offender shall be conditioned
2 upon the offender being given credit toward service of the
3 sentence for the time spent in the custody of or under the
4 supervision of the Federated States of Micronesia.

5 (7) Sections 1003 through 1007 and section 1010 of
6 chapter 10 of this title shall be applicable to the return
7 of an offender under this section. However, an offender
8 returned under this section shall not be deemed to have
9 been extradited for any purpose.

10 (8) An offender whose return is sought pursuant to
11 this section may be admitted to bail or be released on his
12 own recognizance at any stage of the proceedings."

13 Section 27. Title 12 of the Code of the Federated States of
14 Micronesia is hereby amended by adding a new section 1116 of chapter
15 11 to read as follows:

16 "Section 1116. Execution of sentences imposing an
17 obligation to make restitution or reparations. If in a
18 sentence issued in a penal proceeding of a transferring
19 country an offender transferred to the Federated States of
20 Micronesia has been ordered to pay a sum of money to the
21 victim of the offense for damage caused by the offense,
22 that penalty or award of damages may be enforced as though
23 it were a civil judgment rendered by a Federated States of
24 Micronesia court. Proceedings to collect the moneys
25 ordered to be paid may be instituted by the Attorney

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1 General in the appropriate Federated States of Micronesia
2 court. Moneys recovered pursuant to such proceedings shall
3 be transmitted through diplomatic channels to the treaty
4 authority of the transferring country for distribution to
5 the victim."

6 Section 28. Chapters 11, 12, and 13 of title 12 of the Code of
7 the Federated States of Micronesia are hereby renumbered as chapters
8 12, 13, and 14, respectively.

9 Section 29. This act shall become law upon approval by the
10 President of the Federated States of Micronesia or upon its becoming
11 law without such approval.

12
13 Date: 7/16/87

Introduced by:

Claude H. Phillip
Claude H. Phillip
(by request)