

A BILL FOR AN ACT

To further amend title 12 of the Code of the Federated States of Micronesia, as amended, by repealing chapter 16 in its entirety and enacting a new chapter 16, entitled the Interstate Criminal Extradition Act, and for other purposes.

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

1 Section 1. Title 12 of the Code of the Federated States of
2 Micronesia, as amended by Public Laws Nos. 10-30, 11-71 and 11-83, is
3 hereby further amended by repealing chapter 16 in its entirety and
4 enacting a new chapter 16 entitled the "Interstate Criminal Extradition
5 Act".

6 Section 2. Title 12 of the Code of the Federated States of
7 Micronesia, as amended by Public Laws Nos. 10-30, 11-71 and 11-83, is
8 hereby further amended by enacting a new section 1601 of chapter 16 to
9 read as follows:

10 "Section 1601. Short title.
11 This act shall be known and may be cited as the Interstate
12 Criminal Extradition Act."

13 Section 3. Title 12 of the Code of the Federated States of
14 Micronesia, as amended by Public Laws Nos. 10-30, 11-71 and 11-83, is
15 hereby further amended by enacting a new section 1602 of chapter 16 to
16 read as follows:

17 "Section 1602. Jurisdiction and application.
18 (1) The provisions of this act, which is enacted pursuant

1 to the Constitution of the Federated States of Micronesia,
2 article I, section 1, article IX, sections 2 (q) and (2)(p),
3 and article XI, section 6, shall extend and apply throughout
4 all of the territory of the Federated States of Micronesia,
5 including the land and waters and the airspace above such land
6 and waters with respect to which the Federated States of
7 Micronesia has legislative jurisdiction.

8 (2) The Supreme Court of the Federated States of Micronesia
9 shall have exclusive jurisdiction over all proceedings
10 conducted pursuant to this act, and all legal action taken
11 under this act."

12 Section 4. Title 12 of the Code of the Federated States of
13 Micronesia, as amended by Public Laws Nos. 10-30, 11-71 and 11-83, is
14 hereby further amended by enacting a new section 1603 of chapter 16 to
15 read as follows:

16 "Section 1603. Purpose. The purposes of this act are:

17 (1) to make it a national crime to flee the jurisdictional
18 boundaries of any State of the Federated States of Micronesia
19 by entering or traversing the exclusively national
20 jurisdictional boundaries of the Federated States of
21 Micronesia, including airspace and territorial waters, in
22 order to escape apprehension, whether the person leaves the
23 Federated States of Micronesia entirely by fleeing to another
24 country, or remains within the Federated States of Micronesia
25 by fleeing one State to hide in another State;

1 (2) to codify national law providing for the extradition of
2 persons from one State of the Federated States of Micronesia
3 to another State of the Federated States of Micronesia, for
4 purposes of prosecution of such persons for serious state
5 crimes or for the imposition or enforcement of a sentence
6 after conviction for a serious state crime;

7 (3) to facilitate the procedure under which any State of
8 the Federated States of Micronesia can obtain extradition of
9 criminal offenders and persons accused of serious state crimes
10 from other States of the Federated States of Micronesia where
11 they might be found;

12 (4) to declare and expressly recognize in national law,
13 that upon proper demand made by any State of the Federated
14 States of Micronesia to another State of the Federated States
15 of Micronesia pursuant to this act, such other State shall
16 have an obligation to surrender and extradite, in accordance
17 with the procedures prescribed by this act, any person who has
18 been charged with or convicted of a serious state crime in the
19 Demanding State and who is wanted by the Demanding State for
20 purposes of prosecution or punishment in the Demanding State
21 for that crime;

22 (5) to promote and strengthen mutual cooperation in law in
23 enforcement among and between the States of the Federated
24 States of Micronesia, through the establishment in national
25 law, of effective procedures by which persons who commit

1 serious state crimes can be brought to justice in the State
2 where the crime was committed;

3 (6) to enact national law enforcement legislation dedicated
4 to the apprehension, prosecution and punishment of persons who
5 commit serious state crimes against any of the States of the
6 Federated States of Micronesia;

7 (7) to clarify the rendition procedure under which persons
8 who commit national crimes are to be apprehended and
9 surrendered by the States to the appropriate national law
10 enforcement authorities for prosecution and punishment under
11 national law."

12 Section 5. Title 12 of the Code of the Federated States of
13 Micronesia, as amended by Public Laws Nos. 10-30, 11-71 and 11-83, is
14 hereby further amended by enacting a new section 1604 of chapter 16 to
15 read as follows:

16 "Section 1604. Supersession.

17 (1) This act repeals existing chapter 16 of title 12 of the
18 Code of the Federated States of Micronesia relating to
19 'Interstate Extradition', and supersedes all other national
20 laws, written or unwritten, in force or followed in the
21 Federated States of Micronesia immediately before the
22 effective date of this act,

23 (a) relating to:

24 (i) interstate extradition of persons among and
25 between the States of the Federated States of Micronesia for

1 prosecution or punishment of such persons for state crimes;
2 and

3 (ii) extradition or rendition of persons from any
4 State to national law enforcement authorities of the Federated
5 States of Micronesia for prosecution and/or punishment of such
6 persons for national crimes; and

7 (b) including:

8 (i) national legislation of the Federated States
9 of Micronesia; and

10 (ii) statutes of the Trust Territory of the
11 Pacific Islands which were continued in effect by article XV,
12 section 1, of the Constitution of the Federated States of
13 Micronesia and are within the jurisdiction of the National
14 Government of the Federated States of Micronesia."

15 Section 6. Title 12 of the Code of the Federated States of
16 Micronesia, as amended by Public Laws Nos. 10-30, 11-71 and 11-83, is
17 hereby further amended by enacting a new section 1605 of chapter 16 to
18 read as follows:

19 "Section 1605. Definitions. As used in this act:

20 (1) 'Application for re-extradition' means a written
21 petition, filed with the Supreme Court by the Secretary of
22 Justice with the consent of the Demanding State on whose
23 behalf extradition proceedings have already been instituted
24 pursuant to this act, seeking approval of the Supreme Court to
25 further detain the person who is the subject of the pending

1 extradition proceedings, for re-extradition of the person to a
2 third State for purposes of prosecution or punishment for a
3 serious state crime committed by the person in that State.

4 (2) 'Demand for interstate extradition' means a
5 requisition made by one State of the Federated States of
6 Micronesia to another State of the Federated States of
7 Micronesia pursuant to this act, for the apprehension, arrest,
8 surrender, rendition and return of a person to the Demanding
9 State for the purpose of criminal prosecution or punishment of
10 the person for a serious state crime committed or allegedly
11 committed in that State.

12 (3) 'Demanding State' means the State of the Federated
13 States of Micronesia making a demand for interstate
14 extradition pursuant to this act, or intending to make such a
15 demand in the immediate future.

16 (4) 'Executive Authority' means the Governor or any person
17 performing the functions of Governor or the chief executive of
18 any State of the Federated States of Micronesia.

19 (5) 'Governor' means any person performing the functions of
20 Governor by authority of the law of any State of the Federated
21 States of Micronesia.

22 (6) 'Interstate Surrender Warrant' means an official
23 authorization issued by a judge pursuant to this act:

24 (a) ordering the surrender of a person from a
25 Requisitioned State to a Demanding State;

1 (b) requiring any person having custody of the person
2 to relinquish custody of the person to the officer
3 or the agent of the Demanding State possessing the warrant;

4 (c) authorizing the officer or agent of the Demanding
5 State to take custody of the person in the Requisitioned State
6 or any other State, for the purpose of handing the person over
7 to the law enforcement authorities of the Demanding State; and

8 (d) authorizing the person to be transported from the
9 Requisitioned State or any other State, to the Demanding State
10 for purposes of prosecution and/or punishment of the person
11 for a serious state crime.

12 (7) 'Judge', unless otherwise noted, means a person who has
13 been duly appointed as a judge or justice of the Supreme Court
14 of the Federated States of Micronesia.

15 (8) 'Person' means and includes any natural or legal
16 person.

17 (9) 'Proceeding' or 'proceedings' means any proceedings
18 conducted by or under the supervision of a judge, magistrate
19 or judicial officer of the National Government of the
20 Federated States of Micronesia or any State, however described
21 in relation to any alleged or proven offense (including
22 extradition proceedings), or property derived from such
23 offense, and includes an inquiry, investigation, or
24 preliminary or final determination of facts.

25 (10) 'Proponent of the Application for Interstate

1 Extradition and Surrender' means the party that institutes the
2 extradition proceedings pursuant to section 1616 of this act,
3 or, where extradition proceedings are contemplated but have
4 not yet been instituted, the party that files the application
5 for a provisional arrest warrant pursuant to section 1616 of
6 this act, being in either case, the Requisitioned State or the
7 Secretary of Justice.

8 (11) 'Requisitioned State' means a State of the Federated
9 States of Micronesia to which a demand for interstate
10 extradition has been made pursuant to this act, or to which
11 such a demand will purportedly be made in the immediate
12 future.

13 (12) 'Secretary of Justice' means the Secretary of the
14 Department of Justice of the Federated States of Micronesia or
15 the chief law enforcement officer of the Federated States of
16 Micronesia, whatever the title of such position is or, in the
17 future, may become.

18 (13) 'Serious state crime' means a violation of any law of
19 any State of the Federated States of Micronesia or any of its
20 political subdivisions, that is a criminal offense punishable
21 by imprisonment in that State or political subdivision for a
22 term of more than one year.

23 (14) 'State' means and includes any of the four States of
24 the Federated States of Micronesia, including, Chuuk, Kosrae,
25 Pohnpei and Yap.

1 (15) 'Supreme Court' means the Supreme Court of the
2 Federated States of Micronesia, and all its divisions,
3 wherever or whenever constituted.

4 (16) 'Surrender' means the act by which the public
5 authorities deliver a person accused of, charged with, and/or
6 convicted of a crime, and who is found within their
7 jurisdiction, to the authorities within whose jurisdiction it
8 is alleged that the crime has been committed.

9 (17) 'Writing' includes facsimiles, electronic mail and any
10 other means of communication which is capable of being
11 reproduced in printed form."

12 Section 7. Title 12 of the Code of the Federated States of
13 Micronesia, as amended by Public Laws Nos. 10-30, 11-71 and 11-83, is
14 hereby further amended by enacting a new section 1606 of chapter 16 to
15 read as follows:

16 "Section 1606. Authority and powers of Requisitioned States.
17 Requisitioned States shall be authorized and empowered to:

18 (1) receive and act on demands for interstate extradition
19 from Demanding States;

20 (2) determine whether or not to take action in the
21 Requisitioned State on behalf of a Demanding State, and if
22 action is to be taken, what action to take;

23 (3) make application to the Supreme Court of the Federated
24 States of Micronesia for warrants of arrest, provisional
25 arrest, and/or surrender;

1 (4) appear at Supreme Court hearings required or authorized
2 by this act;

3 (5) institute or defend interstate extradition proceedings
4 in the Supreme Court with respect to any person whose
5 surrender is sought by a Demanding State; and

6 (6) take any other legal action, deemed to be necessary or
7 expedient to effectuate the purposes of this act; PROVIDED,
8 however, the Supreme Court of the Federated States of
9 Micronesia, having exclusive jurisdiction over all interstate
10 extradition proceedings, no collateral State proceedings shall
11 be allowed."

12 Section 8. Title 12 of the Code of the Federated States of
13 Micronesia, as amended by Public Laws Nos. 10-30, 11-71 and 11-83, is
14 hereby further amended by enacting a new section 1607 of chapter 16 to
15 read as follows:

16 "Section 1607. Authority and powers of the Secretary of
17 Justice. The Secretary of Justice of the Federated States of
18 Micronesia shall be authorized and empowered to:

19 (1) receive and act on demands for interstate extradition
20 from Demanding States, where the Requisitioned State refuses
21 or fails to take action on the demand under this act, or where
22 the Requisitioned State does not institute extradition
23 proceedings pursuant to this act even though the requirements
24 of this act have been met;

25 (2) determine whether or not to take action in the

1 Requisitioned State on behalf of a Demanding State, and if
2 action is to be taken, what action to take, where the
3 Requisitioned State refuses or fails to take action on a
4 demand or request made under this act;

5 (3) make application to the Supreme Court of the Federated
6 States of Micronesia for warrants of arrest, provisional
7 arrest, and/or surrender, where the Requisitioned State
8 refuses or fails to take action on a demand or request made
9 under this act;

10 (4) appear at Supreme Court hearings required or authorized
11 by this act;

12 (5) institute interstate extradition proceedings in the
13 Supreme Court with respect to any person whose surrender is
14 sought by a Demanding State, where the Requisitioned State
15 refuses or fails to take action on the demand under this act,
16 or where the Requisitioned State does not institute
17 extradition proceedings pursuant to this act even though the
18 requirements of this act have been met;

19 (6) take any action authorized by section 1606 of this act,
20 or required of Requisitioned States by any other section of
21 this act, where the Requisitioned State refuses or fails to
22 take action under this act;

23 (7) prosecute offenses created by section 1608 of this act
24 for unlawful flight to avoid prosecution or punishment, and
25 other offenses created by this act;

1 (8) demand surrender from any State of any person accused
2 of, charged with, or convicted of a national crime, for
3 purposes of prosecution or punishment by the Federated States
4 of Micronesia for the national crime; and

5 (9) take any other legal action, deemed to be necessary or
6 expedient to effectuate the purposes of this act."

7 Section 9. Title 12 of the Code of the Federated States of
8 Micronesia, as amended by Public Laws Nos. 10-30, 11-71 and 11-83, is
9 hereby further amended by enacting a new section 1608 of chapter 16 to
10 read as follows:

11 "Section 1608. Unlawful flight to avoid prosecution or
12 punishment.

13 (1) A person who knowingly commits a serious state crime in
14 any State of the Federated States of Micronesia or any
15 political subdivision of that State, and who subsequently
16 leaves, departs, or flees that State's jurisdictional
17 boundaries and enters or traverses the exclusively national
18 jurisdictional boundaries of the Federated States of
19 Micronesia, including airspace and/or territorial waters, in
20 order to escape apprehension, prosecution or punishment for
21 the serious state crime, commits a felony offense punishable
22 by imprisonment for not more than three years, a maximum fine
23 of \$25,000, or both, whether the person:

24 (a) subsequently enters or traverses the
25 jurisdictional boundaries of another State of the Federated

1 States of Micronesia; or

2 (b) leaves the Federated States of Micronesia and
3 subsequently enters the jurisdictional boundaries of a foreign
4 country.

5 (2) A person charged with or convicted of a serious state
6 crime by any State of the Federated States of Micronesia, and
7 who subsequently leaves, departs, or flees that State's
8 jurisdictional boundaries and enters or traverses the
9 exclusively national jurisdictional boundaries of the
10 Federated States of Micronesia, including airspace and/or
11 territorial waters, in order to escape apprehension,
12 prosecution or punishment for the serious state crime and in
13 violation of a court order issued in any criminal proceeding
14 in that state relating to the charge or conviction, commits a
15 felony offense punishable by imprisonment for not less than
16 six months and not more than ten years, a maximum fine of
17 \$100,000, or both, whether the person:

18 (a) subsequently enters or traverses the
19 jurisdictional boundaries of another State of the Federated
20 States of Micronesia; or

21 (b) leaves the Federated States of Micronesia and
22 subsequently enters the jurisdictional boundaries of a foreign
23 country.

24 (3) In a prosecution for any offense created by subsection
25 (1) of this section, it shall be presumed that the person

1 left, departed, or fled in order to escape apprehension,
2 prosecution or punishment, where the person left, departed or
3 fled the State within 180 days of commission of the offense;
4 PROVIDED, however, such presumption may be rebutted by the
5 accused.

6 (4) In a prosecution for any offense created by subsection
7 (2) of this section, it shall be conclusively presumed, as a
8 matter of law, that the person left, departed, or fled the
9 State in order to escape apprehension, prosecution or
10 punishment, where the person left, departed or fled the State
11 in violation of a court order not to leave that State's
12 jurisdictional boundaries and the person has refused to
13 voluntarily return to that State in order to appear at any
14 proceedings relating to the relevant charge or conviction by
15 waiving extradition pursuant to section 1621 of this act.

16 (5) Prosecution for any offense created by subsection (1)
17 or (2) of this section, may be instituted by the Secretary of
18 Justice in the Trial Division of the Supreme Court of the
19 Federated States of Micronesia, either in the State that the
20 person left, departed or fled, or in the State where the
21 person can be found."

22 Section 10. Title 12 of the Code of the Federated States of
23 Micronesia, as amended by Public Laws Nos. 10-30, 11-71 and 11-83, is
24 hereby further amended by enacting a new section 1609 of chapter 16 to
25 read as follows:

1 "Section 1609. Interstate extradition; obligation of
2 Requisitioned States.

3 (1) Where a demand for interstate extradition is made in
4 any manner provided in section 1612 of this act, a
5 Requisitioned State shall be obligated and required to
6 surrender to the Demanding State for purposes of prosecution
7 or punishment by the Demanding State, any person charged in
8 the Demanding State with having committed a serious state
9 crime against the laws of that State, and/or any person who
10 having been charged and/or convicted of a serious state crime
11 in the Demanding State, is wanted by the Demanding State for
12 violation(s) of any court order(s) arising out of the charge
13 or conviction, including, without limitation, escape from
14 official custody, and/or violation(s) of orders relating to
15 bail, probation, or parole.

16 (2) Subsection (1) of this section shall apply whether the
17 person left the Demanding State voluntarily or involuntarily,
18 or in cases arising under section 1610 of this act,
19 notwithstanding the fact that the person was not in the
20 Demanding State at the time the offense was committed and has
21 not fled therefrom."

22 Section 11. Title 12 of the Code of the Federated States of
23 Micronesia, as amended by Public Laws Nos. 10-30, 11-71 and 11-83, is
24 hereby further amended by enacting a new section 1610 of chapter 16 to
25 read as follows:

1 "Section 1610. Extradition of persons not present in
2 Demanding State at time of commission of crime.

3 (1) Where a demand for interstate extradition is made in
4 any manner provided in section 1612 of this act, a State shall
5 be obligated and required to surrender to the Demanding State
6 any person charged in the Demanding State with committing an
7 act in the Requisitioned State, or in a third State,
8 intentionally resulting in a serious state crime in the
9 Demanding State.

10 (2) The provisions of this act, not otherwise inconsistent,
11 shall apply to cases arising under subsection (1) of this
12 section even though the person accused was not in the
13 Demanding State at the time of the commission of the crime and
14 has not fled therefrom.

15 (3) Neither the demand made pursuant to subsection (1) of
16 this section, nor any proceedings under this act pursuant to
17 this section need state or show that the person sought has
18 fled from justice from the Demanding State, or at the time of
19 the commission of the crime was in the demanding or other
20 State."

21 Section 12. Title 12 of the Code of the Federated States of
22 Micronesia, as amended by Public Laws Nos. 10-30, 11-71 and 11-83, is
23 hereby further amended by enacting a new section 1611 of chapter 16 to
24 read as follows:

25 "Section 1611. Interstate extradition objections. An

1 interstate extradition objection to the surrender of a
2 person under this act shall automatically arise where:

3 (1) final judgment has already been entered against the
4 person in any State of the Federated States of Micronesia for
5 the offense, and the person is neither unlawfully at large nor
6 at large in breach of a condition of release;

7 (2) under the law of the Demanding State, the person has
8 become immune from prosecution or punishment because of lapse
9 of time, amnesty or any other reason;

10 (3) the person has already been acquitted or pardoned in
11 the Demanding State, or duly punished under the law of the
12 Demanding State, for the offense or another offense
13 constituted by the same conduct as the serious state crime;

14 (4) judgment has been entered in the person's absence, and
15 the law of the Demanding State does not entitle the person,
16 after such person's surrender, to appear before the court and
17 to raise any defense the person might have had, had judgment
18 not been so entered *in absentia*;

19 (5) a prosecution for the offense for which
20 extradition is sought is pending against the person in the
21 Requisitioned State;

22 (6) the offense was committed outside the territory of the
23 Demanding State and the Constitution of the Federated States
24 of Micronesia does not provide for State court jurisdiction
25 over an offense of that kind committed outside the territory

1 of the Demanding State;

2 (7) the offense for which surrender is sought is regarded
3 by the Requisitioned State as having been committed wholly or
4 partly within the Requisitioned State,
5 and the Requisitioned State has confirmed that prosecution for
6 the offense will be instituted in that State; or

7 (8) the offense for which surrender is sought is regarded
8 by the Federated States of Micronesia as a national crime, and
9 the Secretary of Justice has confirmed that prosecution for
10 the offense will be instituted by the Federated States of
11 Micronesia."

12 Section 13. Title 12 of the Code of the Federated States of
13 Micronesia, as amended by Public Laws Nos. 10-30, 11-71 and 11-83, is
14 hereby further amended by enacting a new section 1612 of chapter 16 to
15 read as follows:

16 "Section 1612. Demands for interstate extradition.

17 (1) Demands for interstate extradition shall be submitted
18 by the Demanding State to the Executive Authority of the
19 Requisitioned State.

20 (2) Demands for interstate extradition shall be:

21 (a) in writing;

22 (b) in the English language;

23 (c) endorsed by the Executive Authority of the
24 Demanding State; and

25 (d) accompanied by the supporting documents required

1 by section 1613 of this act.

2 (3) Where the Executive Authority of any State is notified
3 that a Demanding State is making a demand for interstate
4 extradition, or intends to make a demand for interstate
5 extradition in the immediate future, and the person whose
6 surrender is sought is believed by the Demanding State to be:

7 (a) physically present in the State to which a demand
8 for interstate extradition has been or will be made; or

9 (b) en route to the State to which a demand for
10 interstate extradition has been or will be made, or about
11 to enter that State in the foreseeable future;
12 the State to which a demand for interstate extradition has
13 been made or will purportedly be made shall be authorized to
14 take any action in that State allowable under section 1606 of
15 this act, with respect to the person whose surrender is
16 sought.

17 (4) Upon receipt of a demand for interstate extradition,
18 the Requisitioned State shall:

19 (a) forthwith review and consider the demand;

20 (b) determine whether or not the demand meets the
21 requirements of this act;

22 (c) promptly communicate the results of the
23 determination made under subsection (7)(b) of this section to
24 the Demanding State; and

25 (d) provide a written statement to the Demanding State

1 setting out any deficiencies in the demand for interstate
2 extradition.

3 (5) The guilt or innocence of a person as to any serious
4 state crime with which the person is charged may not be
5 inquired into by the Requisitioned State or in any proceedings
6 in the Requisitioned State after the demand for interstate
7 extradition has been presented to that State pursuant to this
8 act, except as it may be involved in identifying the person as
9 being the same person named in the arrest warrant issued in
10 the Demanding State and supporting the demand for interstate
11 extradition, as required by section 1613(2) or (3) of this
12 act.

13 (6) Where the Requisitioned State determines that a demand
14 for interstate extradition meets the requirements of this act,
15 the Requisitioned State shall institute extradition
16 proceedings pursuant to section 1615 of this act, if
17 satisfied:

18 (a) that a warrant for the arrest of the person
19 identified by the Demanding State has been duly issued in the
20 Demanding State in respect of a serious state crime;

21 (b) that the person named in the warrant issued in the
22 Demanding State and whose surrender is sought, is physically
23 present in the Requisitioned State, or is en route to the
24 Requisitioned State or about to enter the Requisitioned State
25 in the foreseeable future;

1 (c) that the supporting documents required by section
2 1613 of this act to accompany a demand for interstate
3 extradition have been produced by the Demanding State, or will
4 be produced in the immediate future;

5 (d) that nothing in this act, the Constitution of the
6 Federated States of Micronesia or any other national law
7 precludes surrender of the person for extradition to the
8 Demanding State; and

9 (e) that there is no other valid and legally
10 justifiable cause why the person should not be surrendered to
11 the Demanding State.

12 (7) Where a demand for interstate extradition meets some
13 requirements of this act, but does not meet all of the act's
14 requirements at the time the request is made, the
15 Requisitioned State may provisionally approve the institution
16 of extradition proceedings, and based upon such provisional
17 approval, may take any action authorized by section 1606 of
18 this act, if satisfied that:

19 (a) any defect or deficiency in the demand for
20 interstate extradition is readily curable; and

21 (b) the Demanding State will take immediate action to
22 cure any defect or deficiency.

23 (8) Upon receipt of a demand for interstate extradition,
24 the Requisitioned State shall inform and advise the Secretary
25 of Justice that the demand has been made, and shall further

1 inform the Secretary of Justice of the outcome of its
2 determination made under subsection (4)(b) of this section as
3 to whether or not the demand meets the requirements of this
4 act, and of its decision made under subsection (7) of this
5 section whether or not to institute extradition proceedings.

6 (9) Where a Requisitioned State decides not to institute
7 extradition proceedings, or fails or refuses to take action on
8 a demand for interstate extradition, the Requisitioned State
9 shall immediately turn over to the Secretary of Justice the
10 demand for interstate extradition, together with all
11 supporting documents required by section 1613 of this act, and
12 the Secretary of Justice shall make an independent assessment
13 as to whether or not the demand for interstate extradition
14 meets the requirements of this act, and whether or not to
15 institute extradition proceedings on behalf of the Demanding
16 State.

17 (10) Where a Requisitioned State decides not to institute
18 extradition proceedings, or fails or refuses to take action on
19 a demand for interstate extradition, but, pursuant to
20 subsection (9) of this section, the Secretary of Justice
21 determines that the demand for interstate extradition meets
22 the requirements of this act, the Secretary of Justice shall
23 be authorized to institute extradition proceedings with
24 respect to the person whose surrender is sought by the
25 Demanding State; PROVIDED, however, the Requisitioned State

1 may appear at and defend their decision not to institute
2 extradition proceedings."

3 Section 14. Title 12 of the Code of the Federated States of
4 Micronesia, as amended by Public Laws Nos. 10-30, 11-71 and 11-83, is
5 hereby further amended by enacting a new section 1613 of chapter 16 to
6 read as follows:

7 "Section 1613. Supporting documents.

8 (1) A demand for interstate extradition under this act
9 shall be accompanied by:

10 (a) as accurate a description as possible of the
11 person sought, together with any other information that may
12 help to establish that person's identity, nationality and
13 location;

14 (b) a statement describing the acts and/or omissions
15 that constitute the serious state crime and containing details
16 of the time and place the offense was committed;

17 (c) the text of the law creating the offense or, if
18 the offense is not created by statute, a statement clearly
19 defining the offense, together with a statement of any
20 applicable laws relating to proceedings barred by lapse of
21 time; and

22 (d) the text of the law of the Demanding State that
23 prescribes the maximum penalty for the offense or, if the
24 penalty is not prescribed by statute, a statement defining the
25 maximum penalty that can be imposed.

1 (2) When a demand for interstate extradition relates to a
2 person who has not yet been convicted, it shall also be
3 accompanied by the original or an authenticated copy of the
4 warrant for the arrest of the person duly issued by a judge,
5 magistrate or other competent judicial authority of the
6 Demanding State and by such evidence as would provide probable
7 cause to believe that the person sought has committed the
8 offense for which extradition is demanded.

9 (3) When a demand for interstate extradition relates to a
10 person who has already been convicted of the offense for which
11 extradition is demanded, it shall be supported by the original
12 or an authenticated copy of the warrant for the arrest of the
13 person duly issued by a judge, magistrate or other competent
14 judicial authority of the Demanding State, and the original or
15 an authenticated copy of the judgment of conviction and
16 evidence establishing that the person sought is the person to
17 whom the conviction refers, and shall be accompanied by a
18 statement describing whether or not the sentence has been
19 imposed, and where imposed, a copy of the sentence or
20 committal order and a statement showing the portion of the
21 sentence remaining to be served, and any bail, probation,
22 parole or other court order relating to the serious state
23 crime that was violated or allegedly violated by the person.

24 (4) Where a demand for interstate extradition has been made
25 or a State and the Secretary of Justice have been notified

1 that such a demand will be made in the immediate future, and
2 where time is of the essence and a substantial likelihood
3 exists that the person whose surrender is sought may flee the
4 jurisdiction of the State unless such person is immediately
5 arrested, a facsimile or an electronically transmitted copy of
6 the arrest warrant required by subsections (2) or (3) of this
7 section or the judgment of conviction required by subsection
8 (3) of this section may be substituted, and shall temporarily
9 suffice for purposes of this section; PROVIDED, however, the
10 original or an authenticated copy shall be produced by the
11 Demanding State as soon as practical, but, in any case, within
12 ten business days.

13 (5) The supporting documents required by this section shall
14 be in the English language.

15 (6) If the Requisitioned State determines that the
16 information or documentation provided in support of a demand
17 for interstate extradition is defective or deficient in any
18 respect, the Requisitioned State may request that additional
19 information or documentation be furnished by the Demanding
20 State within a reasonable time."

21 Section 15. Title 12 of the Code of the Federated States of
22 Micronesia, as amended by Public Laws Nos. 10-30, 11-71 and 11-83, is
23 hereby further amended by enacting a new section 1614 of chapter 16 to
24 read as follows:

25 "Section 1614. Authenticated documents.

1 (1) Any relevant authenticated document shall be admissible
2 in any proceeding under this act.

3 (2) A document that is sought to be admitted in a
4 proceeding under this act shall be deemed to be authenticated
5 where such document:

6 (a) is signed or certified by a judge, magistrate,
7 court officer or other competent authority in or of the
8 Demanding State, and witnessed under oath or affirmation; or

9 (b) is under the official or public seal of:

10 (i) the Executive Authority of the Demanding
11 State;

12 (ii) the Department of State of the Demanding
13 State; or

14 (iii) a Secretary of a department of the
15 government, or any other person who administers a department
16 of the government of the Demanding State.

17 (3) Nothing in this section prevents the proof of any
18 matter or the admission of any document in the proceedings
19 pursuant to any other law or rule of evidence of or in force
20 in the Federated States of Micronesia.

21 (4) Except as is provided by this act, supporting
22 documents, as well as other documents or other material
23 supplied in response to a demand for interstate extradition
24 shall not require further certification or authentication."

25 Section 16. Title 12 of the Code of the Federated States of

1 Micronesia, as amended by Public Laws Nos. 10-30, 11-71 and 11-83, is
2 hereby further amended by enacting a new section 1615 of
3 chapter 16 to read as follows:

4 "Section 1615. Application for Interstate Extradition and
5 Surrender; application for arrest warrant.

6 (1) Interstate extradition proceedings under this act are
7 instituted by the filing of an Application for Interstate
8 Extradition and Surrender with the Trial Division of the
9 Supreme Court of the Federated States of Micronesia in the
10 State where the person whose extradition is sought is believed
11 to be located; PROVIDED, however, interstate extradition
12 proceedings under this act may be readily transferred to the
13 Trial Division of the Supreme Court of the Federated States of
14 Micronesia in any State where such person can be found.

15 (2) Applications for Interstate Extradition and Surrender
16 may be filed by the Requisitioned State, or by the Secretary
17 of Justice, on behalf of the Demanding State.

18 (3) An Application for Interstate Extradition and Surrender
19 shall be accompanied by an application for a warrant for the
20 arrest of the person whose surrender is sought, unless such
21 person has already been arrested or has otherwise surrendered
22 to the jurisdiction of the Supreme Court.

23 (4) The application for the warrant of arrest, as set forth
24 in subsection (3) of this section, shall be
25 supported by:

1 (a) an affidavit of the Proponent of the Application
2 for Interstate Extradition and Surrender, being either the
3 Attorney General of the Requisitioned State or the Secretary
4 of Justice, attesting to the matters enumerated in section
5 1612(7) of this act; and

6 (b) the supporting documents required by section 1613
7 of this act."

8 Section 17. Title 12 of the Code of the Federated States of
9 Micronesia, as amended by Public Laws Nos. 10-30, 11-71 and 11-83, is
10 hereby further amended by enacting a new section 1616 of chapter 16 to
11 read as follows:

12 "Section 1616. Provisional arrest.

13 (1) The Requisitioned State or the Secretary of Justice may
14 apply to the Supreme Court for a provisional arrest warrant,
15 without the advance or contemporaneous filing of an
16 Application for Interstate Extradition and Surrender, in the
17 case of urgency where:

18 (a) the Requisitioned State or the Secretary of
19 Justice has provisionally approved the institution of
20 extradition proceedings pursuant to section 1612(8) of this
21 act; or

22 (b) an official demand for interstate extradition is
23 expected to be made, but has not yet been received from the
24 Demanding State; and

25 (c) there is a substantial likelihood that the person

1 whose surrender is sought may flee the jurisdiction of the
2 Requisitioned State unless such person is immediately
3 arrested.

4 (2) An application for a provisional arrest warrant made
5 pursuant to subsection (1) of this section shall be supported
6 by an affidavit of the Proponent of the Application for
7 Interstate Extradition and Surrender, being either the
8 Attorney General of the Requisitioned State or the Secretary
9 of Justice attesting to:

10 (a) the matters enumerated in section 1612(7)(a) or
11 (b) of this act;

12 (b) such other matters enumerated in section 1612(6)
13 of this act as have been met or then established; and

14 (c) such supporting documents listed in section 1613
15 of this act as are available at the time of application for
16 the provisional arrest warrant."

17 Section 18. Title 12 of the Code of the Federated States of
18 Micronesia, as amended by Public Laws Nos. 10-30, 11-71 and 11-83, is
19 hereby further amended by enacting a new section 1617 of chapter 16 to
20 read as follows:

21 "Section 1617. Power of judges to issue arrest warrants and
22 provisional arrest warrants in anticipation of interstate
23 extradition; obligation of States.

24 (1) In anticipation of and pending the surrender of a
25 person from a Requisitioned State to a Demanding State, a

1 judge shall be authorized and empowered to issue a warrant for
2 the arrest of a person, or a provisional arrest warrant for
3 the provisional arrest of a person in the Requisitioned State,
4 where:

5 (a) an Application for Interstate Extradition and
6 Surrender has been filed by the Requisitioned State or the
7 Secretary of Justice pursuant to section 1615 of this act; or

8 (b) an application for a provisional arrest warrant
9 has been submitted, pursuant to section 1616 of this act, by
10 the Requisitioned State or by the Secretary of Justice; and

11 (c) the judge is satisfied that there is probable
12 cause to believe that:

13 (i) a warrant for the arrest of the person has
14 been duly issued in a Demanding State in respect of a serious
15 state crime;

16 (ii) the person named in the arrest warrant issued
17 in the Demanding State is the same person named in the warrant
18 application submitted pursuant to this act;

19 (iii) the person whose surrender is sought is
20 physically present in, or is en route to or about to enter the
21 Requisitioned State in the immediate future;

22 (iv) the person committed a serious state
23 crime in the Demanding State, or is in violation of a court
24 order issued in the Demanding State in respect of a serious
25 state crime; and

1 (d) the Demanding State has made a demand for
2 interstate extradition to the Requisitioned State with respect
3 to the person, or intends to make such a request in the
4 immediate future.

5 (2) Any person who is the subject of an arrest warrant or a
6 provisional arrest warrant issued by a judge under this act,
7 shall forthwith be apprehended and arrested by the
8 Requisitioned State or by any State where the person can be
9 found, pending or in furtherance of the institution of
10 interstate extradition proceedings with respect to such person
11 pursuant to this act, and the obligation to honor and execute
12 an arrest warrant or a provisional arrest warrant issued
13 pursuant to this act shall attach and apply whether or not the
14 Requisitioned State is the Proponent of the Application for
15 Interstate Extradition and Surrender.

16 (3) A warrant issued pursuant to subsection (1) of this
17 section shall authorize the peace officer or other person to
18 whom it is directed to:

19 (a) arrest the person who is the subject of the
20 warrant at any time and any place where the person may be
21 found within the State;

22 (b) command the aid of all peace officers or other
23 persons in the execution of the warrant; and

24 (c) deliver the person, subject to the provisions of
25 this act, to a judge in the Trial Division of the Supreme

1 Court of the Federated States of Micronesia in the State where
2 the arrest was made."

3 Section 19. Title 12 of the Code of the Federated States of
4 Micronesia, as amended by Public Laws Nos. 10-30, 11-71 and 11-83, is
5 hereby further amended by enacting a new section 1618 of chapter 16 to
6 read as follows:

7 "Section 1618. Assistance to arresting officer; obstruction
8 of justice in interstate extradition; criminal penalties.

9 (1) Every peace officer or other person empowered to make
10 an arrest as provided in section 1617(3) of this act, shall
11 have the same authority, in arresting the person sought, to
12 command assistance in making the arrest as any peace officer
13 has by law in that State.

14 (2) Any person who knowingly fails or refuses to render
15 assistance in the apprehension and arrest of a person named in
16 an arrest warrant or provisional arrest warrant issued under
17 this act, and as provided in subsection (1) of this section,
18 commits a felony offense punishable by imprisonment for not
19 more than three years, a maximum fine of \$25,000, or both."

20 Section 20. Title 12 of the Code of the Federated States of
21 Micronesia, as amended by Public Laws Nos. 10-30, 11-71 and 11-83, is
22 hereby further amended by enacting a new section 1619 of chapter 16 to
23 read as follows:

24 "Section 1619. Return on the arrest warrant; preliminary
25 hearing.

1 (1) A person arrested under an arrest warrant or
2 provisional arrest warrant issued pursuant to this act shall
3 be brought before a judge without unnecessary delay, and a
4 preliminary hearing shall be held to determine whether there
5 is probable cause to believe that:

6 (a) the person arrested is the same person named in
7 the arrest warrant issued in the Demanding State; and

8 (b) the person arrested committed a serious state
9 crime in the Demanding State, or is in violation of a court
10 order issued in the Demanding State in respect to a serious
11 state crime.

12 (2) At the preliminary hearing on probable cause held
13 pursuant to subsection (1) of this section:

14 (a) the rules of evidence shall not strictly apply,
15 and a finding of probable cause may be based upon hearsay
16 evidence in whole or in part;

17 (b) the person arrested shall be given a copy of the
18 warrant of arrest issued in the Demanding State, the
19 arrest warrant or provisional arrest warrant issued by the
20 judge pursuant to this act, the application for the arrest
21 warrant or provisional arrest warrant, and the affidavit in
22 support of the arrest warrant or provisional arrest warrant;
23 and

24 (c) the standard of proof shall be by a preponderance
25 of the evidence.

1 (3) Where a person has been brought before a judge pursuant
2 to subsections (1) and (2) of this section, and the judge is
3 satisfied that sufficient proof has been made, pending the
4 surrender determination hearing held pursuant to section 1622
5 of this act, or pending such person's voluntary surrender of
6 himself or herself to the jurisdiction of the Demanding State
7 pursuant to a waiver of interstate extradition made under
8 section 1621 of this act, the judge shall be authorized to:

9 (a) commit the person to the custody of the Federated
10 States of Micronesia or official detention by the Federated
11 States of Micronesia, in the Requisitioned State or in any
12 other State, for a period not to exceed thirty days pending
13 further proceedings; or

14 (b) release the person on the person's own
15 recognizance, or on bail, pending the surrender determination
16 hearing, if satisfied that the person will not flee the
17 jurisdiction and will voluntarily appear at all subsequent
18 interstate extradition proceedings.

19 (4) Where a person is released on recognizance or on bail,
20 the judge shall be authorized to set reasonable conditions of
21 release, including reporting requirements and such other
22 conditions as are allowed under the laws of the Federated
23 States of Micronesia, and shall require that the person's
24 passport and other travel documents, if any, be surrendered to
25 the judge until conclusion of the surrender determination

1 hearing."

2 Section 21. Title 12 of the Code of the Federated States of
3 Micronesia, as amended by Public Laws Nos. 10-30, 11-71 and 11-83, is
4 hereby further amended by enacting a new section 1620 of chapter 16 to
5 read as follows:

6 "Section 1620. Automatic review hearing.

7 (1) No later than thirty days after a person is committed
8 to custody pursuant to section 1619(3)(a) of this act,
9 remanded to custody pursuant to subsection (3) of this
10 section, or released on recognizance or bail pursuant to
11 section 1619(3)(b) of this act or subsection (3) of this
12 section, and every thirty days thereafter, a review hearing
13 shall be held by the judge for the purpose of determining
14 whether a person should be released or discharged, or whether
15 any order made by a judge with respect to such person should
16 be modified, rescinded or continued in force.

17 (2) At the review hearing held pursuant to subsection (1)
18 of this section the proponent of the application for
19 interstate extradition and surrender shall be required to
20 present evidence in support of any request for continued
21 detention, custody, or deprivation of liberty of the person,
22 and shall further be required to establish by a preponderance
23 of the evidence, that probable cause for those matters
24 enumerated in section 1612(6) of this act continues to exist,
25 and, if an application for interstate extradition and

1 surrender has not yet been filed, that interstate extradition
2 proceedings will be instituted under this act for such person
3 within the thirty days following the review hearing.

4 (3) Where the judge is satisfied that the requirements of
5 subsection (2) of this section have been met, the judge may
6 order the release of the person on recognizance or on bail,
7 under any of the conditions authorized by section 1619(4) of
8 this act, or may remand the person to custody for an
9 additional period not to exceed thirty days.

10 (4) Where the judge is not satisfied by the evidence
11 presented at the review hearing held pursuant to subsections
12 (1) and (2) of this section, the person shall be discharged
13 and released forthwith; PROVIDED, however, where the person
14 was the subject of a provisional arrest warrant, such
15 discharge and release shall not prevent the subsequent
16 institution of extradition proceedings nor preclude the re-
17 arrest of the person pursuant to those proceedings.

18 (5) No person shall be detained, or held in custody longer
19 than sixty days pursuant to orders made under section 1619(3)
20 of this act, or under subsection (3) of this section, without
21 the formal institution of interstate extradition proceedings
22 against such person in the Federated States of Micronesia, by
23 the filing of an Application for Interstate Extradition and
24 Surrender in the Supreme Court by the Requisitioned State or
25 the Secretary of Justice.

1 (6) No person shall be detained, or held in custody longer
2 than ninety days pursuant to orders made under section 1619(3)
3 of this act, or under subsection (3) of this section, unless
4 an Interstate Surrender Warrant has been issued with respect
5 to such person."

6 Section 22. Title 12 of the Code of the Federated States of
7 Micronesia, as amended by Public Laws Nos. 10-30, 11-71 and 11-83, is
8 hereby further amended by enacting a new section 1621 of chapter 16 to
9 read as follows:

10 "Section 1621. Waiver of interstate extradition and consent
11 to surrender.

12 (1) At any time, a person whose surrender is sought
13 by a Demanding State may waive extradition and voluntarily
14 consent to surrender himself or herself to the Demanding
15 State, for purposes of criminal prosecution or punishment for
16 any serious state crime for which the Demanding State seeks
17 the person's surrender, and any other offense for which the
18 person has been charged or convicted in the Demanding State,
19 provided the judge is satisfied that the person's consent is
20 voluntarily given with notice of the matters enumerated in
21 this section.

22 (2) Waiver of interstate extradition and consent to
23 surrender may be made by a person through oral or written
24 application of such person to a judge.

25 (3) Where a person applies to a judge for waiver of

1 interstate extradition for any serious state crime(s) and
2 indicates that he or she wishes to consent to surrender, the
3 judge shall conduct an inquiry on the record, to determine
4 whether or not the waiver and consent are voluntarily given by
5 the person and whether the person understands the charges
6 pending against him or her in the Demanding State and the
7 maximum penalties that could be imposed, and during such
8 inquiry the judge shall inform and advise the person that
9 waiving extradition and consenting to surrender shall mean
10 that:

11 (a) the person will be committed to the custody
12 of the Federated States of Micronesia, in the Requisitioned
13 State or any other State that the judge directs, until such
14 time as the person is surrendered to the Demanding State;

15 (b) no extradition proceedings will take place in the
16 Requisitioned State, or elsewhere, for the purpose of
17 determining whether the person should be surrendered to the
18 Demanding State for the serious state crime;

19 (c) the person's waiver of interstate extradition and
20 consent to surrender is final and cannot subsequently be
21 withdrawn; and

22 (d) the person will be surrendered to the Demanding
23 State without further hearing or court proceedings of any kind
24 in the Requisitioned State.

25 (4) After the inquiry conducted by the judge pursuant to

1 subsection (3) of this section, the judge shall make a
2 determination on the record as to whether or not the person
3 fully understands the matters enumerated in subsection (3) of
4 this section and if so, whether the person continues to
5 request that interstate extradition be waived and voluntarily
6 consents to surrender for the serious state crime(s).

7 (5) Where charges are pending against a person in the
8 Demanding State for any criminal offenses that do not qualify
9 as serious state crimes under this act and the
10 Demanding State has asked that the person also be
11 surrendered for prosecution or punishment for those offenses,
12 and the person has informed the judge that he or she wishes to
13 voluntarily consent to surrender himself or herself to the
14 Demanding State for prosecution or punishment for those
15 offenses, the judge shall:

16 (a) conduct an inquiry and advise the person as in
17 subsection (3) of this section with respect to the other
18 offense(s); and

19 (b) inform the person that he or she cannot be
20 extradited from the Requisitioned State for such other
21 offense(s); and

22 (c) after the inquiry, make a determination on the
23 record as to whether or not the person fully understands, with
24 respect to the other offenses, the matters enumerated in this
25 subsection and subsection (3) of this section, and if so,

1 whether the person continues to voluntarily consent to
2 surrender for the other offenses as well as for the serious
3 state crime(s).

4 (6) Where the judge is satisfied as to the matters required
5 by this section, and is further satisfied that:

6 (a) the person has waived extradition for any serious
7 state crime(s) and the consent to surrender for the serious
8 state crimes was given with notice and voluntarily; and, where
9 applicable,

10 (b) the consent to surrender for any non-extraditable
11 offenses was given with notice and voluntarily;
12 the judge shall order the commitment to custody of such
13 person, pending the person's surrender to the Demanding State,
14 and shall, without undue delay, issue an Interstate Surrender
15 Warrant for the person with respect to the offense(s) for
16 which the person has consented to be surrendered.

17 (7) This section shall not be deemed to limit the rights of
18 a person to return voluntarily and without formality to any
19 State in order to face any charges or matters which might be
20 pending against the person in such State."

21 Section 23. Title 12 of the Code of the Federated States of
22 Micronesia, as amended by Public Laws Nos. 10-30, 11-71 and 11-83, is
23 hereby further amended by enacting a new section 1622 of chapter 16 to
24 read as follows:

25 "Section 1622. Surrender determination hearing.

1 (1) Where the Requisitioned State or the Secretary of
2 Justice has instituted extradition proceedings through the
3 filing of an application for interstate extradition and
4 surrender, and the person has not waived extradition and
5 voluntarily consented to surrender for the offense in
6 accordance with section 1621 of this act, a hearing shall be
7 held by a judge for the purpose of determining whether the
8 person should be surrendered to the Demanding State.

9 (2) The surrender determination hearing shall commence no
10 later than sixty days after the filing of the application for
11 interstate extradition and surrender, and shall be held in a
12 courthouse in a location easily accessible to the public. The
13 hearing shall be open to the public and shall be recorded.

14 (3) At the surrender determination hearing the evidence
15 shall be limited to the following:

16 (a) whether the person who is the subject of the
17 surrender determination hearing is the same person named in
18 the arrest warrant of the Demanding State;

19 (b) whether the offense for which extradition is
20 sought is a serious state crime meeting the requirements of
21 section 1605(13) of this act;

22 (c) whether documents required by section 1613 of this
23 act have been filed with the Supreme Court, and whether such
24 documents have been properly authenticated where required by
25 this act;

1 (d) whether the documents referred to in subsection
2 3(c) of this section and other evidence adduced in the
3 extradition proceedings support a finding of probable cause to
4 believe that the person whose extradition is requested
5 committed a serious state crime as such offense was presented
6 and defined by the laws of the Demanding State, or is in
7 violation of a court order issued in the Demanding State in
8 respect of a serious state crime; and

9 (e) whether any interstate extradition objection, or
10 other law or compelling circumstance or State or national
11 interest precludes surrender of the person for extradition to
12 the Demanding State.

13 (4) The surrender determination hearing and all other
14 extradition proceedings held under this act, shall not be
15 conducted for the purpose of deciding the guilt or innocence
16 of the person whose surrender is sought, which decision shall
17 be reserved for the trial court in the Demanding State, and
18 for that reason the person whose surrender is sought shall not
19 be entitled to adduce, and the judge shall not be allowed to
20 receive:

21 (a) evidence to contradict any allegation that the
22 person has engaged in conduct that constitutes the alleged
23 serious state crime or conduct violative of court orders
24 issued in the Demanding State in respect of a serious state
25 crime; and/or

1 (b) evidence relating to any defense that the person
2 might have with respect to the serious state crime, or court
3 orders issued in respect of a serious state crime;
4 except insofar as such evidence is adduced or received for
5 purposes of establishing probable cause to believe the truth
6 of any matter required by this act to be established by
7 probable cause.

8 (5) The surrender determination hearing and all other
9 interstate extradition proceedings under this act shall be
10 conducted as special proceedings which are neither exclusively
11 civil nor criminal in nature, and which are held for the
12 specific purpose of determining whether the requirements of
13 this act have been met and the circumstances are such that the
14 act requires surrender of a person to a Demanding State for
15 the purpose of standing trial in the Demanding State for a
16 serious state crime, or where such person has already been
17 convicted, for the purpose of punishment for the serious state
18 crime.

19 (6) In the surrender determination hearing, and in all
20 other interstate extradition proceedings conducted under this
21 act, the person whose extradition is sought shall be entitled
22 to the assistance of legal counsel, to notice of the charges
23 pending against him or her in the Demanding State, and to a
24 hearing on whether or not the demand for interstate
25 extradition and surrender of the person pursuant to this act

1 should be granted or denied.

2 (7) This act shall not require the presentation or
3 establishment of a *prima facie* case in order for an
4 Application for Interstate Extradition and Surrender to be
5 granted for purposes of prosecution for a serious state crime
6 in a Demanding State; PROVIDED, however, where the law of the
7 Demanding State requires that evidence sufficient to support a
8 *prima facie* case be presented in the extradition proceedings
9 held in the State from which the person is to be extradited,
10 and the Proponent of the Application for Interstate
11 Extradition and Surrender of the Federated States of
12 Micronesia requests that the court make a finding as to
13 whether or not a *prima facie* case has been presented:

14 (a) the judge shall make an assessment of the
15 sufficiency of the evidence presented at the surrender
16 determination hearing and shall make a finding as a part of
17 the record of the extradition proceedings, as to whether or
18 not, under the laws and rules of evidence in force in the
19 Federated States of Micronesia, the evidence presented would
20 be sufficient to place the person on trial; PROVIDED, however,

21 (b) subsection (4) of this section shall continue to
22 apply."

23 Section 24. Title 12 of the Code of the Federated States of
24 Micronesia, as amended by Public Laws Nos. 10-30, 11-71 and 11-83, is
25 hereby further amended by enacting a new section 1623 of chapter 16 to

1 read as follows:

2 "Section 1623. Surrender decision.

3 (1) At the conclusion of the surrender determination
4 hearing held pursuant to section 1622 of this act, the judge
5 shall consider the evidence, and shall make a determination as
6 to whether or not the Application for Interstate Extradition
7 and Surrender should be granted or denied.

8 (2) The judge shall grant the Application for Interstate
9 Extradition and Surrender where the judge finds, by a
10 preponderance of the evidence, that:

11 (a) the person who was the subject of the hearing is
12 the person named in the arrest warrant of the Demanding State;

13 (b) the offense for which extradition is sought is a
14 serious state crime;

15 (c) the documents required by section 1613 of this act
16 have been filed with the Supreme Court, and where required
17 under the act have been properly authenticated;

18 (d) the documents referred to in subsection 2(c) of
19 this section and other evidence adduced in the extradition
20 proceedings support a finding of probable cause to believe
21 that the person whose extradition is demanded committed the
22 serious state crime as such offense was presented and defined
23 by the Demanding State, or is in violation of a court order
24 issued in the Demanding State in respect of a serious state
25 crime; and

1 (e) there is no legally sustainable ground under
2 subsection (3) of this section to deny the application.

3 (3) The judge shall deny the Application for Interstate
4 Extradition and Surrender in any case where:

5 (a) the judge is not satisfied that the matters set
6 forth in subsections (2)(a) through (2)(d) of this section
7 have been established by a preponderance of the evidence;

8 (b) a valid interstate extradition objection has
9 arisen under section 1611 of this act which the judge finds
10 sufficient to warrant a legally justifiable determination of
11 refusal to surrender;

12 (c) taking into consideration, and having due regard
13 for the national interests of the Federated States of
14 Micronesia, including:

15 (i) its interest in effective interstate
16 cooperation to combat crime;

17 (ii) the severity of the offense;

18 (iii) the length of time that has elapsed since
19 commission of the offense; or

20 (iv) the length of time remaining on any sentence
21 to be served as a result of the person's conviction for the
22 offense; the judge determines that the interests of justice
23 demand that the person not be surrendered.

24 (4) Within fourteen days of the surrender determination
25 hearing required by section 1622 of this act, the judge shall

1 issue a written decision stating whether the Application for
2 Interstate Extradition and Surrender is granted or denied,
3 accompanied by findings of fact and conclusions of law, and
4 where the application is granted, listing:

5 (a) the serious state crime(s), if any, for which the
6 person is ordered to be surrendered; and

7 (b) any other offenses in respect of which the person
8 is found to have voluntarily consented to surrender.

9 (5) Where the judge determines that the Application for
10 Interstate Extradition and Surrender should be denied, the
11 person shall forthwith be discharged and released with respect
12 to the extradition proceedings.

13 (6) Where the judge determines that the Application for
14 Interstate Extradition and Surrender should be granted, the
15 judge shall issue an Interstate Surrender Warrant in
16 accordance with section 1626 of this act, ordering that the
17 person be committed to the custody of the Federated States of
18 Micronesia in the Requisitioned State or any other State that
19 the judge directs, to be held without bail, and to await
20 surrender to the Demanding State within the time limits
21 established by section 1630 of this act.

22 (7) The Proponent of the Application for Interstate
23 Extradition and Surrender shall promptly notify the Demanding
24 State of the decision of the judge under this section and
25 shall provide the Demanding State with a copy of the written

1 decision."

2 Section 25. Title 12 of the Code of the Federated States of
3 Micronesia, as amended by Public Laws Nos. 10-30, 11-71 and 11-83, is
4 hereby further amended by enacting a new section 1624 of chapter 16 to
5 read as follows:

6 "Section 1624. Rule of specialty.

7 (1) A person surrendered for extradition under this act
8 shall not be arrested, detained, tried or punished in the
9 jurisdiction of the Demanding State for an offense other than
10 that for which extradition has been granted, nor be extradited
11 by the Demanding State to a third State, unless:

12 (a) that person has left the jurisdiction of the
13 Demanding State after extradition and has voluntarily
14 surrendered to it;

15 (b) that person has not left the jurisdiction of the
16 Demanding State within thirty days after being free to do so;
17 or

18 (c) upon such conditions as may be prescribed by
19 the judge in the extradition proceedings, the Proponent
20 of the Application for Interstate Extradition and Surrender:

21 (i) has consented to the arrest, detention, trial
22 or punishment of that person for an offense other than that
23 for which extradition was granted; or

24 (ii) has consented to extradition to a third
25 State.

1 (2) Subsection (1) of this section shall not apply to
2 offenses committed after extradition.

3 (3) Instead of the offense for which a person was
4 surrendered, after notice by the Demanding State to the
5 Proponent of the Application for Interstate Extradition and
6 Ssurrender, the person may be tried or punished for a
7 different offense, including a lesser included offense,
8 provided that it is:

9 (a) based on the same facts as were set out in the
10 demand for interstate extradition and the supporting documents
11 and evidence; and

12 (b) is punishable by no greater penalty than the
13 offense for which the person was surrendered."

14 Section 26. Title 12 of the Code of the Federated States of
15 Micronesia, as amended by Public Laws Nos. 10-30, 11-71 and 11-83, is
16 hereby further amended by enacting a new section 1625 of chapter 16 to
17 read as follows:

18 "Section 1625. Applications for re-extradition to another
19 State.

20 (1) Where multiple demands for interstate extradition have
21 been made, and either the Requisitioned State or the Secretary
22 of Justice has instituted extradition proceedings on behalf of
23 a Demanding State, but surrender of the same person for a
24 different serious state crime is sought by another State, upon
25 the Secretary of Justice's filing of an application for re-

1 extradition on behalf of the other State, the judge shall be
2 authorized and empowered to determine whether or not the
3 person can be re-extradited to that other State after the
4 criminal proceedings have been concluded in the first State to
5 which the person is extradited pursuant to this act.

6 (2) Applications for re-extradition shall be made in the
7 same manner as Applications for Interstate Extradition and
8 Surrender and must:

9 (a) be filed by the Secretary of Justice on behalf of
10 the State seeking re-extradition, before the surrender
11 determination hearing held on the first Demanding State's
12 application for extradition and surrender under section 1622
13 of this act;

14 (b) be approved by the first Demanding State for re-
15 extradition of the person from that State to the State seeking
16 re-extradition; and

17 (c) meet all requirements of this act for extradition
18 of the person to a Demanding State.

19 (3) Where an application for re-extradition has been
20 properly filed, at the conclusion of the surrender
21 determination hearing on the first application the judge shall
22 determine whether or not the application for re-extradition
23 meets the requirements of this act for surrender of the person
24 to the other State, and shall determine whether or not the
25 application for re-extradition is granted or denied.

1 (4) The judge shall issue an order granting or denying the
2 application for re-extradition, stating findings of fact and
3 conclusions of law justifying the decision.

4 (5) Applications for re-extradition may be filed by the
5 Secretary of Justice on behalf of any State seeking interstate
6 extradition of the same person sought by another Demanding
7 State, and the judge may consider and rule upon any number of
8 such applications; PROVIDED, however, only one such
9 application shall be allowed on behalf of each State seeking
10 re-extradition of the person."

11 Section 27. Title 12 of the Code of the Federated States of
12 Micronesia, as amended by Public Laws Nos. 10-30, 11-71 and 11-83, is
13 hereby further amended by enacting a new section 1626 of chapter 16 to
14 read as follows:

15 "Section 1626. Interstate Surrender Warrant; deferred
16 surrender.

17 (1) An Interstate Surrender Warrant shall:

18 (a) be in writing;

19 (b) state the offense(s) for which the person is to be
20 surrendered;

21 (c) require any person who has custody of the person
22 to be surrendered to hand such person over to the officer or
23 agent designated by the Demanding State;

24 (d) authorize the officer or agent of the Demanding
25 State to:

1 (i) transport the person from the place in the
2 Requisitioned State or any other State where such officer or
3 agent takes custody of the person, out of the Requisitioned
4 State or other State, to the Demanding State; and

5 (ii) hold the person in custody for such time as
6 is necessary to enable the person to be handed over to the
7 Demanding State within the time limits established by section
8 1630 of this act.

9 (2) If the person subject to the Interstate Surrender
10 Warrant is already serving a custodial sentence or has been
11 charged in the Requisitioned State for another offense
12 committed in that State, the judge may order that the
13 Interstate Surrender Warrant be held in abeyance and
14 that execution be deferred until the person:

15 (a) has completed the custodial sentence and is
16 scheduled to be released from custody;

17 (b) has been tried and acquitted or discharged for the
18 other offense; or

19 (c) has been tried and convicted for the other
20 offense, and has completed any custodial sentence for such
21 offense and is scheduled to be released from custody."

22 Section 28. Title 12 of the Code of the Federated States of
23 Micronesia, as amended by Public Laws Nos. 10-30, 11-71 and 11-83, is
24 hereby further amended by enacting a new section 1627 of chapter 16 to
25 read as follows:

1 "Section 1627. Confinement in jail during transit to
2 Demanding State.

3 (1) The officer or agent of a Demanding State to whom a
4 person has been delivered following extradition proceedings in
5 a Requisitioned State, or to whom a person has been delivered
6 after waiving extradition in that State, and who is passing
7 through any other State with such a person for the purpose of
8 immediately handing such person over to the Demanding State
9 may, when necessary, confine the person in the jail of any
10 State through which such person is required to pass en route
11 to the Demanding State.

12 (2) States shall receive and safely keep persons in custody
13 pursuant to an Interstate Surrender Warrant issued pursuant to
14 section 1626 of this act, or a temporary Interstate Surrender
15 Warrant issued under section 1629 of this act, until the
16 officer or agent having charge of the person is able to
17 proceed to the Demanding State.

18 (3) Upon request, an officer or agent transporting a person
19 pursuant to subsection (1) of this section, shall produce and
20 show to the keeper of the jail in any State of transit, the
21 Interstate Surrender Warrant or temporary Interstate Surrender
22 Warrant authorizing custody of the person, and no one shall be
23 entitled to contest the person's custody in any court in the
24 State of transit."

25 Section 29. Title 12 of the Code of the Federated States of

1 Micronesia, as amended by Public Laws Nos. 10-30, 11-71 and 11-83, is
2 hereby further amended by enacting a new section 1628 of chapter 16 to
3 read as follows:

4 "Section 1628. Limited surrender for trial.

5 (1) Where a judge determines after a surrender
6 determination hearing that a demand for interstate extradition
7 and Application for Interstate Extradition and Surrender
8 should be granted, but:

9 (a) the person is being proceeded against or is
10 servng a custodial sentence in the Requisitioned State
11 for an offense other than that for which extradition has
12 been requested; and

13 (b) surrender is sought by the Demanding State for an
14 offense of which the person is accused but of which the person
15 has not been convicted; the judge may either defer the
16 surrender pursuant to section 1626 of this act until the
17 conclusion of the proceedings against that person in the
18 Requisitioned State or the full execution of any custodial
19 sentence, or may order limited surrender of the person to the
20 Demanding State pursuant to this section for the purpose of
21 being tried in the Demanding State for the offense for which
22 extradition is sought, provided the requirements of subsection
23 (2) of this section are met.

24 (2) The judge shall not grant limited surrender for trial
25 pursuant to subsection (1) of this section unless satisfied

1 that the person will be returned by the Demanding State to the
2 Requisitioned State after conviction for offenses in the
3 Demanding State, and the judge is further satisfied that:

4 (a) the person will be given a speedy trial in the
5 Demanding State;

6 (b) the person will be returned to the Requisitioned
7 State after the trial, even if convicted in the Demanding
8 State; and

9 (c) adequate provision has been made for the
10 travel of the person to the Demanding State and for the
11 person's return to the Requisitioned State.

12 (3) Persons temporarily surrendered pursuant to this
13 section shall remain in custody during the period of surrender
14 and shall be returned to the Requisitioned State at the
15 conclusion of the trial proceedings held in the Demanding
16 State."

17 Section 30. Title 12 of the Code of the Federated States of
18 Micronesia, as amended by Public Laws Nos. 10-30, 11-71 and 11-83, is
19 hereby further amended by enacting a new section 1629 of chapter 16 to
20 read as follows:

21 "Section 1629. Temporary Interstate Surrender Warrant.

22 (1) Upon Application of the Proponent of the Application
23 for Interstate Extradition and Surrender, the judge may issue
24 a temporary Interstate Surrender Warrant, for limited
25 surrender of a person for purposes of trial pursuant to

1 section 1628 of this act.

2 (2) 'Temporary Interstate Surrender Warrant' means an
3 Interstate Surrender Warrant issued pursuant to this section
4 and section 1628 of this act, conforming to the requirements
5 established by section 1626(1) of this act for Interstate
6 Surrender Warrants, and stating the terms of limited
7 surrender, including that:

8 (a) surrender has been granted for trial only;

9 (b) the person shall be given a speedy trial in the
10 Demanding State;

11 (c) the person shall be returned to the Requisitioned
12 State after the trial, and if convicted, without execution of
13 any sentence imposed; and

14 (d) the Demanding State shall bear the expense and
15 make adequate provision for the person's travel to the
16 Demanding State and return to the Requisitioned State.

17 (3) Where a person who was the subject of a temporary
18 Interstate Surrender Warrant was surrendered to the Demanding
19 State and was returned to the Requisitioned State after trial
20 in the Demanding State and:

21 (a) has completed his or her custodial sentence in the
22 Requisitioned State; or

23 (b) has been tried and acquitted or discharged for the
24 offense in the Requisitioned State proceeding; or

25 (c) has been tried and convicted for the offense in

1 the Requisitioned State proceeding, and has completed any
2 custodial sentence for such offense and is scheduled to be
3 released from custody; the judge may then issue an Interstate
4 Surrender Warrant for the surrender of the person to the
5 Demanding State, for imposition and/or execution of the
6 sentence imposed in that State for the extraditable offense
7 for which the person had been temporarily surrendered for
8 purposes of trial.

9 (4) Any time a person spends in custody in a Demanding
10 State as a result of a temporary Interstate Surrender Warrant
11 shall be counted as time spent in custody in the Requisitioned
12 State for the purpose of completing the sentence for which the
13 person was already in custody in the Requisitioned State, or
14 for the purpose of calculating the time to be served by the
15 person with respect to any sentence imposed after conviction
16 in the Requisitioned State proceeding that was pending against
17 the person before limited surrender of the person for purposes
18 of trial in the Demanding State.

19 (5) Where, pursuant to subsection (4) of this section, a
20 person who is the subject of a temporary Interstate Surrender
21 Warrant completes the term of the sentence for which the
22 person was in custody in the Requisitioned State, while in
23 custody in the Demanding State, the Requisitioned State shall
24 so advise the Demanding State, and any promises made by the
25 Demanding State pursuant to subsection (2)(a) and (2)(c) of

1 this section shall cease to apply."

2 Section 31. Title 12 of the Code of the Federated States of
3 Micronesia, as amended by Public Laws Nos. 10-30, 11-71 and 11-83, is
4 hereby further amended by enacting a new section 1630 of chapter 16 to
5 read as follows:

6 "Section 1630. Execution of an Interstate Surrender Warrant.

7 (1) Where an Interstate Surrender Warrant has been issued,
8 the Proponent of the Application for Interstate Extradition
9 and Surrender shall immediately notify the Demanding State,
10 and shall inform the Demanding State of the time limitations
11 of this section, the length of time the person has been held
12 in custody since issuance of the Interstate Surrender Warrant,
13 and of the Demanding State's obligation to expeditiously
14 arrange for execution of the Interstate Surrender Warrant by
15 surrender of the person to an officer or agent designated by
16 the Demanding State.

17 (2) Subject to subsection (3) of this section, where a
18 person is in custody as a result of the issuance of an
19 Interstate Surrender Warrant, but has not been surrendered to
20 the Demanding State within sixty days after the date the
21 Interstate Surrender Warrant was issued, the person may apply
22 to a judge for rescission of the Interstate Surrender Warrant
23 and for release from custody, and a hearing shall be held to
24 determine whether or not the application should be granted.

25 (3) Where an Interstate Surrender Warrant has been held in

1 abeyance and execution of the warrant deferred pursuant to
2 section 1626(2) of this act, because the person who is the
3 subject of such Interstate Surrender Warrant is serving a
4 custodial sentence in the Requisitioned State, or is a
5 defendant in a criminal case which has not been concluded,
6 subsection (2) of this section shall not apply.

7 (4) Where an application for rescission of the Interstate
8 Surrender Warrant and release from custody is made pursuant to
9 subsection (2) of this section, notice shall be given to the
10 Proponent of the Application for Interstate Extradition and
11 Surrender, and a hearing shall be held within a reasonable
12 time to determine whether the application for rescission
13 should be granted or denied.

14 (5) At the hearing held pursuant to subsection (2) of this
15 section, the Proponent of the Application for Interstate
16 Extradition and Surrender shall have the burden of
17 establishing, by a preponderance of the evidence, that there
18 has been justifiable cause for the delay in executing the
19 Interstate Surrender Warrant and that the application for
20 rescission of the Interstate Surrender Warrant and for release
21 from custody should be denied.

22 (6) After the hearing held pursuant to subsection (2) of
23 this section, unless the judge is satisfied by the evidence
24 presented that there was justifiable cause for delay in
25 executing the Interstate Surrender Warrant, the judge shall

1 grant the application for rescission of the Interstate
2 Surrender Warrant and order that the person be released from
3 custody with respect to the extradition proceedings.

4 (7) Justifiable cause for delay includes, without
5 limitation, the following:

6 (a) surrender during that time period would have
7 endangered the life, health or personal safety of the person;

8 (b) no suitable means of transport was available for
9 transporting the person to the Demanding State, and all
10 reasonable steps were taken to obtain suitable transport; or

11 (c) there was delay by a third State in responding to
12 a request by the Demanding State for permission to transport
13 the person through the third State, and all reasonable steps
14 were taken to obtain the permission.

15 (8) At the conclusion of the hearing held pursuant to
16 subsection (2) of this section, where the judge is satisfied
17 by the evidence presented that there was justifiable cause for
18 delay in surrendering the person, the judge shall deny the
19 application for rescission of the Interstate Surrender Warrant
20 and order that the person be continued to be held in custody,
21 for an additional period, not to exceed sixty days, unless
22 renewed in accordance with this section.

23 (9) Notwithstanding subsection (8) above, no person shall
24 be held in custody pursuant to an Interstate Surrender Warrant
25 longer than 180 days, after which time the Interstate

1 Surrender Warrant shall automatically expire unless the
2 Interstate Surrender Warrant has been executed and surrender
3 has been effected."

4 Section 32. Title 12 of the Code of the Federated States of
5 Micronesia, as amended by Public Laws Nos. 10-30, 11-71 and 11-83, is
6 hereby further amended by enacting a new section 1631 of chapter 16 to
7 read as follows:

8 "Section 1631. Evidence taking requests by Demanding States.

9 (1) In the interest of mutual interstate cooperation in
10 criminal matters, in any case where interstate extradition
11 proceedings have been instituted against a person pursuant to
12 this act, the Demanding State shall be authorized and allowed
13 to take and gather evidence in the Requisitioned State, for
14 use in:

15 (a) any proceedings for the extradition of the person
16 from the Requisitioned State to the Demanding State;

17 (b) any proceedings in the Demanding State relating to
18 the prosecution or punishment of such person for the serious
19 state crime; whether or not the Requisitioned State is the
20 Proponent of the Application for Interstate Extradition and
21 Surrender.

22 (2) Where a request is made pursuant to subsection (1) of
23 this section, the Proponent of the Application for Interstate
24 Extradition and Surrender shall assist the Demanding State to:

25 (a) have evidence taken, or documents or other

1 articles produced in evidence in the Requisitioned State;

2 (b) obtain and execute search warrants or other lawful
3 instruments authorizing a search for things believed to be
4 located in the Requisitioned State, which may be relevant to
5 investigations or proceedings in the Demanding State, and if
6 found, seize them;

7 (c) locate or restrain any property believed to be the
8 proceeds of crime located in the Requisitioned State;

9 (d) confiscate any property believed to be located in
10 the Requisitioned State, which is the subject of a
11 confiscation or forfeiture order issued in the Demanding
12 State;

13 (e) transmit to the Demanding State any confiscated or
14 forfeited property which is the subject of a confiscation or
15 forfeiture order issued in the Demanding State or any proceeds
16 realized therefrom, or any other evidence, documents, articles
17 or things;

18 (f) transfer in custody to the Demanding State a
19 person detained in the Requisitioned State who consents
20 to assist the Demanding State in the relevant investigation or
21 proceedings;

22 (g) obtain any other form of assistance in any
23 investigation commenced or proceeding instituted in the
24 Demanding State that involves or is likely to involve the
25 exercise of a coercive power over a person or property

1 believed to be in the Requisitioned State; and/or

2 (h) allow the presence of persons nominated by the
3 Demanding State during the execution of any request made under
4 this act.

5 (3) The Supreme Court shall be authorized to consider and
6 rule upon any request made pursuant to subsection (1) of this
7 section, for the taking and gathering of evidence in the
8 Requisitioned State as set forth in subsection (2) of this
9 section, and may issue any order it deems necessary to
10 effectuate the purposes of this section."

11 Section 33. Title 12 of the Code of the Federated States of
12 Micronesia, as amended by Public Laws Nos. 10-30, 11-71 and 11-83, is
13 hereby further amended by enacting a new section 1632 of chapter 16 to
14 read as follows:

15 "Section 1632. Curing of deficiencies or defects in
16 documents. In any proceeding under this act, where a document
17 required by section 1613 of this act, or any other section of
18 this act is defective or deficient in any respect, and the
19 judge considers the defect or deficiency to be readily
20 curable, in the interest of justice, the judge may continue
21 the proceedings for a reasonable period to allow the defect or
22 deficiency to be cured."

23 Section 34. Title 12 of the Code of the Federated States of
24 Micronesia, as amended by Public Laws Nos. 10-30, 11-71 and 11-83, is
25 hereby further amended by enacting a new section 1633 of chapter 16 to

1 read as follows:

2 "Section 1633. Immunity from service of process in certain
3 civil actions. A person brought into a Demanding State by, or
4 after waiver of, interstate extradition based on a criminal
5 charge shall not be subject to service of personal process in
6 civil actions arising out of the same facts as the criminal
7 proceeding for which the person is surrendered, until the
8 person has been convicted in the criminal proceeding, or, if
9 acquitted, until the person has had reasonable opportunity to
10 leave the Demanding State."

11 Section 35. Title 12 of the Code of the Federated States of
12 Micronesia, as amended by Public Laws Nos. 10-30, 11-71 and 11-83, is
13 hereby further amended by enacting a new section 1634 of chapter 16 to
14 read as follows:

15 "Section 1634. Nonwaiver by States. Nothing in this act
16 shall be deemed to constitute a waiver by a Requisitioned
17 State of its right, power or privilege to try any demanded
18 person for a crime committed within the Requisitioned State,
19 or of its right, power or privilege to regain custody of such
20 person by extradition proceedings or otherwise for the purpose
21 of trial, sentence or punishment for any crime committed
22 within that State, nor shall any proceedings under this act
23 which result in, or fail to result in, extradition be deemed a
24 waiver by any State of any of its rights, privileges or
25 jurisdiction in any way whatsoever."

1 Section 36. Title 12 of the Code of the Federated States of
2 Micronesia, as amended by Public Laws Nos. 10-30, 11-71 and 11-83, is
3 hereby further amended by enacting a new section 1635 of chapter 16 to
4 read as follows:

5 "Section 1635. Costs and expenses.

6 (1) The Proponent of the Application for Interstate
7 Extradition and Surrender shall bear the cost of any
8 proceedings conducted in the Trial Division of the Supreme
9 Court of the Federated States of Micronesia in the
10 Requisitioned State arising out of a demand for interstate
11 extradition and surrender, including costs incurred in
12 pursuing the demand through the Supreme Court, and costs
13 incurred in connection with the seizure and handing over of
14 property, or the arrest and detention of the person whose
15 extradition is sought.

16 (2) The Demanding State shall bear the costs of any
17 proceedings conducted in the Demanding State arising out of a
18 demand for interstate extradition or proceedings related to
19 the serious state crime for which the person's extradition is
20 sought, including costs incurred in pursuing such demand or
21 such proceedings through the courts, and costs incurred in
22 connection with the seizure and handing over of property, or
23 the arrest and detention of the person whose extradition is
24 sought, and shall also bear the costs incurred in conveying a
25 person whose extradition is sought by the Demanding State from

1 or returning the person to the Requisitioned State including
2 transit costs."

3 Section 37. Title 12 of the Code of the Federated States of
4 Micronesia, as amended by Public Laws Nos. 10-30, 11-71 and 11-83, is
5 hereby further amended by enacting a new section 1636 of chapter 16 to
6 read as follows:

7 "Section 1636. Judicial review. Judicial review as to the
8 detention or custody of a person held under this act, or of
9 any court order issued or proceeding held under this act,
10 shall be limited to an action on an application for a writ of
11 habeas corpus, and when such an action is taken the scope of a
12 habeas corpus review shall be limited to:

13 (1) jurisdiction of the court;

14 (2) whether or not a demand for interstate extradition was
15 properly pursued under this act, and whether or not the act's
16 requirements have been met;

17 (3) the identity of the person in custody or detained, or
18 whose liberty has been restricted, and whether that person is
19 the same person named in the arrest warrant issued in the
20 Demanding State; and

21 (4) whether or not there was sufficient evidence to support
22 a finding of probable cause to believe that the person
23 referred to in subsection (3) of this section committed the
24 serious state crime as such offense was presented and defined
25 by the laws of the Demanding State, or is in violation of a

1 court order issued in the Demanding State in respect of a
2 serious state crime."

3 Section 38. Title 12 of the Code of the Federated States of
4 Micronesia, as amended by Public Laws Nos. 10-30, 11-71 and 11-83, is
5 hereby further amended by enacting a new section 1637 of chapter 16 to
6 read as follows:

7 "Section 1637. Regulations. Within 120 days of this act
8 becoming law, the Secretary of Justice shall promulgate
9 regulations, not inconsistent with this act, prescribing all
10 matters necessary or convenient for giving effect to the act,
11 including, without limitation, establishing procedures for
12 effective implementation of the act, and prescribing forms of
13 applications and warrants authorized by the act."

14 Section 39. Title 12 of the Code of the Federated States of
15 Micronesia, as amended by Public Laws Nos. 10-30, 11-71 and 11-83, is
16 hereby further amended by enacting a new section 1638 of chapter 16 to
17 read as follows:

18 "Section 1638. Establishment of the Interstate Criminal
19 Extradition Fund.

20 (1) There is hereby established in the accounts of the
21 Federated States of Micronesia an account to be known
22 as the Federated States of Micronesia Interstate Criminal
23 Extradition Fund.

24 (2) In this act, the term 'Fund' means the Federated States
25 of Micronesia Interstate Criminal Extradition Fund and the

1 account established pursuant to subsection (1) of this
2 section.

3 (3) Unless otherwise provided by this act or other law, the
4 following shall be deposited in the Fund:

5 (a) any sums of money allocated to the Fund from time
6 to time by Congressional appropriation;

7 (b) any property paid or transferred to the Fund
8 pursuant to or in accordance with any other law;

9 (c) any voluntary payment, grant or gift made by any
10 person for the purposes of the Fund; and

11 (d) any income derived from the investment of any
12 amount standing to the credit of the Fund.

13 (4) The assets of the Fund shall be applied towards meeting
14 expenses incurred in carrying out and furthering the purposes
15 of this act, and in particular, in preventing the
16 proliferation of crime in the States of the Federated States
17 of Micronesia, and in the giving and receiving of interstate
18 cooperation in law enforcement in the Federated States of
19 Micronesia.

20 (5) The Fund shall be administered jointly by the Secretary
21 of Justice and the Secretary of the Department of Finance and
22 Administration of the Federated States of Micronesia, until
23 such time as a separate Board of Trustees is established or
24 designated by law.

25 (6) To the extent that funds are available, the Fund shall

1 be accessible to any State for expenses incurred in
2 effectuating the interstate extradition of persons pursuant to
3 this act, or in transnational extradition of persons to and
4 from foreign countries pursuant to the law of the Federated
5 States of Micronesia; PROVIDED, however, where the Fund lacks
6 sufficient funds to accommodate a State's request under this
7 section, the State shall not be entitled to demand or receive
8 funding from the Federated States of Micronesia pursuant to
9 this section."

10 Section 40. Title 12 of the Code of the Federated States of
11 Micronesia, as amended by Public Laws Nos. 10-30, 11-71 and 11-83, is
12 hereby further amended by enacting a new section 1639 of chapter 16 to
13 read as follows:

14 "Section 1639. Surrender for national crimes.

15 (1) The National Government of the Federated States of
16 Micronesia, having subject matter jurisdiction over national
17 crimes committed anywhere in the Federated States of
18 Micronesia, shall not be required to demand extradition or
19 institute extradition proceedings of any kind with respect to
20 the surrender to the National Government of any person accused
21 of, charged with, or convicted of a criminal offense under any
22 law of the Federated States of Micronesia, for purposes of
23 prosecution or punishment for such criminal offense.

24 (2) The Secretary of Justice shall be authorized to demand
25 the surrender to the National Government of any person accused

1 of, charged with, or convicted of a criminal offense under any
2 law of the Federated States of Micronesia, for purposes of
3 prosecution or punishment for such criminal offense, and any
4 person who, having been charged with or convicted of a
5 criminal offense under any law of the Federated States of
6 Micronesia, has escaped from official custody or has violated
7 any term of bail, probation, parole, or any order arising out
8 of a criminal proceeding in any court of the Federated States
9 of Micronesia relating to the charge or conviction.

10 (3) A demand for surrender for national crimes shall be
11 supported and accompanied by an arrest warrant issued by a
12 judge for the person whose surrender is sought, and where the
13 person has been convicted for the offense, the demand shall
14 also be supported and accompanied by a certified copy of the
15 commitment order or bail, probation, parole or other court
16 order violated or allegedly violated by the person.

17 (4) Where the Secretary of Justice issues a demand for
18 surrender for national crimes to the chief law enforcement
19 authority of any State where the person can be found, that
20 State shall forthwith cause the person to be apprehended,
21 arrested and delivered by that State to the law enforcement
22 authorities of the Federated States of Micronesia as directed
23 by the Secretary of Justice, for prosecution or punishment by
24 the National Government for the criminal offense."

25 Section 41. Title 12 of the Code of the Federated States of

1 Micronesia, as amended by Public Laws Nos. 10-30, 11-71 and 11-83, is
2 hereby further amended by enacting a new section 1640 of chapter 16 to
3 read as follows:

4 "Section 1640. Liberal construction; friendly settlement.
5 The provisions of this act shall be liberally interpreted and
6 construed so as to effectuate its stated purposes,
7 particularly with respect to mutual cooperation in law
8 enforcement among and between the States, and to that end,
9 States shall do whatever is necessary to facilitate the
10 friendly settlement of any difficulty which may arise out of
11 application of the act."

12 Section 42. This act shall become law upon approval by the
13 President of the Federated States of Micronesia or upon its becoming
14 law without such approval.

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16 Date: _____ Introduced by: _____
17 Joseph J. Urusemal
18 (by request)
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