



The President
Palikir, Pohnpei
Federated States of Micronesia

PRESIDENTIAL COMM. NO. 17-204
FSM CONGRESS

March 16, 2012

The Honorable Isaac V. Figir
Speaker
17th FSM Congress
Palikir, Pohnpei State, FM 96941



Dear Speaker Figir:

I have approved the following congressional act to become Public Law No. 17-38, as follows:

Congressional Act No. 17-37, "AN ACT TO FURTHER AMEND TITLE 11 OF THE CODE OF THE FEDERATED STATES OF MICRONESIA, AS AMENDED BY PUBLIC LAW NO. 11-72, BY CREATING A SUBCHAPTER 1 UNDER CHAPTER 6 CONSISTING OF EXISTING SECTIONS 601 THROUGH 610, CREATING A NEW SUBCHAPTER II UNDER CHAPTER 6 DEFINING CRIMES RELATING TO TRAFFICKING IN PERSONS AND RELATED OFFENSES, AND PRESCRIBING APPROPRIATE PENALTIES FOR THEIR VIOLATION, AND FOR OTHER PURPOSES."

This congressional act is an important first step in implementing some of the obligations that FSM assumed by accession to the Palermo Convention and the United Nations Optional Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime.

The offenses that are defined in the act, and for which appropriate penalties for their violation are provided, are as follows: (i) human smuggling, (ii) aggravated human smuggling, (iii) human trafficking, (iii) trafficking in children, (iv) aggravated human trafficking, (v) exploiting a trafficked person, and (vi) offenses relating to fraudulent travel or identity documents. The congressional act also establishes legal obligation of commercial carriers, and their staff, to verify that every passenger possesses the necessary travel documents, such as passports, visas and other supporting papers, and failing on this duty, a commercial carrier - and their staff - could be liable for a fine of \$1,000 for every passenger. Repeated failure to comply with the obligation could result in revocation of license or cancellation of authority to operate.

Moreover, Congress further strengthened the version of the executive bill on the subject by providing an additional offense of *aggravated human trafficking*, in view of circumstances that would render an offense more serious - such as for instance - where a victim dies or



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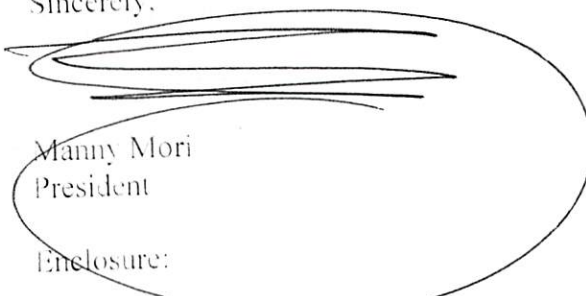
The Honorable Isaac V. Figir
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has suffered serious injury, or where a victim was exposed to HIV/AIDS. I also appreciate the initiative of Congress in vesting in the Secretary of Justice the authority to establish national guidelines and procedures for providing assistance and protection to victims and witnesses of trafficking.

Allow me to extend to Members of Congress and Staff my appreciation for their hard work during the regular session to ensure the immediate passage of the act, which is critical in the fight against human trafficking and for protection of human rights.

With warm personal regards, I remain,

Sincerely,



Manny Mori
President

Enclosure:

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



CONGRESS OF THE FEDERATED STATES OF MICRONESIA

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

PRESIDENTIAL COMM. NO. 17-204
FSM CONGRESS

Office of the Chief Clerk

February 21, 2012



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

Dear President Mori:

I have the honor to transmit herewith Congressional Act No. 17-37, "AN ACT TO FURTHER AMEND TITLE 11 OF THE CODE OF THE FEDERATED STATES OF MICRONESIA, AS AMENDED BY PUBLIC LAW NO. 11-72, BY CREATING A SUBCHAPTER I UNDER CHAPTER 6 CONSISTING OF EXISTING SECTIONS 601 THROUGH 610, CREATING A NEW SUBCHAPTER II UNDER CHAPTER 6 DEFINING CRIMES RELATING TO TRAFFICKING IN PERSONS AND RELATED OFFENSES, AND PRESCRIBING APPROPRIATE PENALTIES FOR THEIR VIOLATION, AND FOR OTHER PURPOSES.", which was passed by the Seventeenth Congress of the Federated States of Micronesia, Third Regular Session, 2012, by a two-thirds vote of all the State delegations as required and as duly certified.

Sincerely yours,

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

Enclosures



CONGRESS OF THE FEDERATED STATES OF MICRONESIA


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


Office of the Speaker

ACT NO. 17-37

(CONGRESSIONAL BILL NO. 17-78, C.D.1)

We hereby certify that on February 9 the foregoing act passed Second and Final Reading of the Seventeenth Congress of the Federated States of Micronesia, Third Regular Session, 2012, by a two-thirds vote of all the State delegations as required under article IX, section 20, of the Constitution of the Federated States of Micronesia.


Isaac V. Figir
Speaker
Congress of the
Federated States of Micronesia


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

SEVENTEENTH CONGRESS OF THE FEDERATED STATES OF MICRONESIA

THIRD REGULAR SESSION, 2012

CONGRESSIONAL BILL NO. 17-78, C.D.1

PUBLIC LAW No. 17-38

AN ACT

To further amend title 11 of the Code of the Federated States of Micronesia, as amended by Public Law No. 11-72, by creating a subchapter I under chapter 6 consisting of existing sections 601 through 610, creating a new subchapter II under chapter 6 defining crimes relating to trafficking in persons and related offenses, and prescribing appropriate penalties for their violation, and for other purposes.

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

1 Section 1. Title 11 of the Code of the Federated States of
2 Micronesia, as amended by Public Law No. 11-72, is hereby
3 further amended by creating a new subchapter I under chapter 6
4 entitled "General Offenses", comprised of existing sections 601
5 through 610.

6 Section 2. Title 11 of the Code of the Federated States of
7 Micronesia, as amended by Public Law No. 11-72, is hereby
8 further amended by inserting a new subchapter II under chapter
9 6, entitled "Trafficking in Persons".

10 Section 3. Title 11 of the Code of the Federated States of
11 Micronesia, as amended by Public Law No. 11-72, is hereby
12 further amended by inserting a new section 611 to subchapter II
13 of chapter 6, to read as follows:

14 "Section 611. Citation. This act shall be known and
15 may be cited as the Trafficking in Persons Act of
16 2012."

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1 Section 4. Title 11 of the Code of the Federated States of
2 Micronesia, as amended by Public Law No. 11-72, is hereby
3 further amended by inserting a new section 612 to subchapter II
4 of chapter 6, to read as follows:

5 "Section 612. Definitions.

6 (1) "Child" means any person below the age of
7 eighteen at the time of the commission of an offense
8 under this chapter.

9 (2) "Commercial carrier" means a legal or natural
10 person that engages in international or interstate
11 transportation of goods or people for commercial
12 gain.

13 (3) "Exploitation" means:

14 (a) the obtaining of financial or other material
15 benefit from the prostitution of another person;

16 (b) the exaction of forced labor or services, or
17 the obtaining of labor or services through deceit,
18 fraud, or by means of a material misrepresentation;

19 (c) slavery or practices similar to slavery.

20 (4) "Forced labor or services" means work or
21 services, the solicitation of financial or material
22 benefits, or the donation of body parts or organs,
23 exacted under the threat of any penalty and for
24 which the person concerned has not offered himself or
25 herself voluntarily. It does not include the

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1 performance of reasonable and lawful work or services
2 by a child at the behest of a parent or legal
3 guardian.

4 (5) "Practices similar to slavery" include debt
5 bondage, serfdom, and forced marriage.

6 (6) "Prostitution" means illicit sexual services
7 performed for financial or material benefit."

8 Section 5. Title 11 of the Code of the Federated States of
9 Micronesia, as amended by Public Law No. 11-72, is hereby
10 further amended by inserting a new section 613 to subchapter II
11 of chapter 6, to read as follows:

12 "Section 613. Offense of human smuggling. A person
13 who knowingly or recklessly arranges or assists
14 another person's illegal entry into any country,
15 including the Federated States of Micronesia, of which
16 the other person is not a citizen and has no lawful
17 right to enter, shall be guilty of human smuggling,
18 regardless of whether the smuggled person successfully
19 arrives in the receiving country. Upon conviction, a
20 person guilty of this offense shall be imprisoned for
21 not more than 10 years, fined not less than \$5,000 but
22 not more than \$20,000, or both."

23 Section 6. Title 11 of the Code of the Federated States of
24 Micronesia, as amended by Public Law No. 11-72, is hereby
25 further amended by inserting a new section 614 to subchapter II

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1 of chapter 6, to read as follows:

2 "Section 614. Offense of aggravated human smuggling.

3 A person who engages in human smuggling, as defined
4 under section 613 of this title, by means of violence
5 or kidnapping or under circumstances in which the life
6 or safety of a smuggled person is or is likely to be
7 endangered, shall be guilty of aggravated human
8 smuggling, regardless of whether the smuggled person
9 successfully arrives in the receiving country. Upon
10 conviction, a person guilty of this offense shall be
11 imprisoned for not more than 15 years, fined not less
12 than \$5,000 but not more than \$25,000, or both."

13 Section 7. Title 11 of the Code of the Federated States of
14 Micronesia, as amended by Public Law No. 11-72, is hereby
15 further amended by inserting a new section 615 to subchapter II
16 of chapter 6, to read as follows:

17 "Section 615. Offense of human trafficking. A person
18 who knowingly recruits, transports, transfers, harbors
19 or receives another person for the purpose of
20 exploitation, by threat, use of force, abduction,
21 fraud, deception, abuse of power or of a position of
22 vulnerability, or the giving or receiving of payments
23 or benefits to achieve the consent of a person having
24 control over another person, for the purpose of
25 exploitation, shall be guilty of human trafficking.

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1 Upon conviction, a person guilty of this offense shall
2 be imprisoned for not more than 15 years, or fined not
3 less than \$5,000 but not more than \$25,000, or both."

4 Section 8. Title 11 of the Code of the Federated States of
5 Micronesia, as amended by Public Law No. 11-72, is hereby
6 further amended by inserting a new section 616 to subchapter II
7 of chapter 6, to read as follows:

8 "Section 616. Offense of trafficking in children. A
9 person who knowingly recruits, transports, transfers,
10 harbors, or receives a child by any means for the
11 purpose of exploitation shall be guilty of child
12 trafficking. Upon conviction, a person guilty of this
13 offense shall be imprisoned for not more than 30
14 years, or fined not less than \$5,000 but not more than
15 \$50,000, or both."

16 Section 9. Title 11 of the Code of the Federated States of
17 Micronesia, as amended by Public Law No. 11-72, is hereby
18 further amended by inserting a new section 617 to subchapter II
19 of chapter 6, to read as follows:

20 "Section 617. Offense of aggravated human
21 trafficking. A person who engages in human
22 trafficking as defined under section 615 of this title
23 or trafficking in children as defined under section
24 616 of this title shall be guilty of aggravated human
25 trafficking if any of the following circumstances are

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1 present:

2 (a) the offense involves serious injury or death
3 of the victim or another person;

4 (b) the offense involves a victim who is
5 particularly vulnerable, including a pregnant woman;

6 (c) the offense exposed the victim to a life-
7 threatening illness, including HIV/AIDS;

8 (d) the victim is physically or mentally
9 handicapped;

10 (e) the offense involves more than one victim;

11 (f) the crime was committed as part of the
12 activity of an organized criminal group;

13 (g) drugs, medications or weapons were used in
14 the commission of the crime;

15 (h) a child was adopted for the purpose of
16 trafficking;

17 (i) the offender has been previously convicted
18 for the same or similar offenses;

19 (j) the offender is a public official;

20 (k) the offender is a spouse or the conjugal
21 partner of the victim;

22 (l) the offender is in a position of
23 responsibility or trust in relation to the victim;

24 (m) the offender is in a position of authority
25 concerning a child victim.

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1 Upon conviction, a person guilty of this offense shall
2 be imprisoned for not more than 30 years, or fined not
3 less than \$5,000 but not more than \$50,000, or both."

4 Section 10. Title 11 of the Code of the Federated States
5 of Micronesia, as amended by Public Law No. 11-72, is hereby
6 further amended by inserting a new section 618 to subchapter II
7 of chapter 6, to read as follows:

8 "Section 618. Offense of exploiting a trafficked
9 person. A person who knowingly engages or
10 participates in or profits from the exploitation of a
11 trafficked person shall be guilty of an offense. Upon
12 conviction, a person guilty of this offense shall be
13 imprisoned for not more than 10 years, or fined not
14 less than \$5,000 but not more than \$20,000, or both."

15 Section 11. Title 11 of the Code of the Federated States
16 of Micronesia, as amended by Public Law No. 11-72, is hereby
17 further amended by inserting a new section 619 to subchapter II
18 of chapter 6, to read as follows:".

19 "Section 619. Consent of trafficked or smuggled
20 person irrelevant. Consent to the act or acts
21 constituting an offense on the part of a smuggled
22 person under sections 613 and 614, or a trafficked
23 person under sections 615, 616, 617, and 618, is not a
24 legal defense."

25 Section 12. Title 11 of the Code of the Federated States

1 of Micronesia, as amended by Public Law No. 11-72, is hereby
2 further amended by inserting a new section 620 to subchapter II
3 of chapter 6, to read as follows:

4 "Section 620. Rights of Victims.

5 (1) A trafficked person shall not be subject to
6 criminal prosecution with respect to:

7 (a) the act of human trafficking;

8 (b) that person's entry into the receiving
9 country;

10 (c) that person's unlawful residence in the
11 receiving country; and

12 (d) that person's procurement or possession of
13 any fraudulent travel or identity document.

14 (2) The Secretary of the Department of Justice
15 shall establish national guidelines and procedures for
16 providing assistance to victims of trafficked persons
17 and witnesses of trafficking in persons, including but
18 not limited to:

19 (a) ensuring that victims, witnesses, and their
20 families are provided adequate protection if their
21 safety is at risk, including measures to protect them
22 from intimidation and retaliation by traffickers and
23 their associates;

24 (b) providing victims with the opportunity to
25 present their views, needs, interests and concerns for

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1 consideration at appropriate stages of any judicial or
2 administrative proceedings relating to the offense,
3 either directly or through their representative,
4 without prejudice to the rights of the defense;

5 (c) where the victim is an unaccompanied child,
6 providing for the appointment of a legal guardian to
7 represent the interests of the child, taking all
8 necessary steps to establish his or her identity and
9 nationality, and making every effort to locate his or
10 her family when this is in the best interest of the
11 child;

12 (d) where the victim is a national of the
13 Federated States of Micronesia, facilitating and
14 accepting the return of the victim without undue or
15 unreasonable delay and with due regard for his or her
16 rights and safety;

17 (e) where the victim is not a national of the
18 Federated States of Micronesia and requests to return
19 to his or her country of origin or the country in
20 which he or she had the right of permanent residence
21 at the time he or she was trafficked, facilitating
22 such return, including arranging for the necessary
23 travel documents, without undue delay and with due
24 regard for his or her rights and safety;

25 (f) providing information to all victims on the

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1 nature of protection, assistance and support to which
2 they are entitled and the possibilities of assistance
3 and support by non-governmental organizations and
4 other victim agencies, as well as information on any
5 legal proceedings related to them. Such information
6 shall be provided in a language and form that the
7 victim understands."

8 Section 13. Title 11 of the Code of the Federated States
9 of Micronesia, as amended by Public Law No. 11-72, is hereby
10 further amended by inserting a new section 621 to subchapter II
11 of chapter 6, to read as follows:

12 "Section 621. Scope of application. The offenses
13 defined in this chapter shall apply regardless of
14 whether the conduct constituting an offense took place
15 inside or outside the jurisdiction of the Federated
16 States of Micronesia if:

17 (1) the Federated States of Micronesia is the
18 receiving country, or if the exploitation occurs
19 herein; or

20 (2) the acts or conduct constituting an offense
21 under this chapter started, ended or occurred in part
22 in the jurisdiction of the Federated States of
23 Micronesia; or

24 (3) the offense is committed by a national of the
25 Federated States of Micronesia or by a person who is

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1 not a citizen of any country but has his or her
2 habitual residence in the Federated States of
3 Micronesia at the time of the commission of the
4 offense; or

5 (4) the offense is committed against a victim who
6 is a national of the Federated States of Micronesia."

7 Section 14. Title 11 of the Code of the Federated States
8 of Micronesia, as amended by Public Law No. 11-72, is hereby
9 further amended by inserting a new section 622 to subchapter II
10 of chapter 6, to read as follows:

11 "Section 622. Offense relating to fraudulent travel
12 or identity documents. A person who makes, obtains,
13 gives, sells, or possesses fraudulent travel or
14 identity documents or supporting papers for the
15 purpose of facilitating human smuggling or human
16 trafficking or for the purpose of facilitating the
17 continued presence of a smuggled or trafficked person
18 in the receiving country shall be guilty of an
19 offense. Upon conviction, a person guilty of this
20 offense shall be imprisoned for not more than 8 years,
21 or fined not less than \$5,000 but not more than
22 \$15,000, or both."

23 Section 15. Title 11 of the Code of the Federated States
24 of Micronesia, as amended by Public Law No. 11-72, is hereby
25 further amended by inserting a new section 623 to subchapter II

PUBLIC LAW No. 17-38

1 of chapter 6, to read as follows:

2 "Section 623. Obligation of commercial carriers.

3 (1) A commercial carrier shall verify that every
4 passenger possesses the necessary travel documents,
5 including passports, visas and other supporting papers,
6 to enter the destination country and any transit
7 countries.

8 (2) The requirement in subsection (1) of this
9 section applies both to staff of the commercial
10 carrier selling or issuing tickets, boarding passes or
11 similar travel documents and to staff collecting or
12 checking tickets prior to or subsequent to boarding.

13 (3) Commercial carriers, or persons referred to
14 under subsection (2) of this section, which fail to
15 comply with the requirements of this section shall be
16 fined \$1,000 for every passenger. Repeated failure
17 to comply may be sanctioned by revocation of license,
18 permit, certificate or authority to operate."

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1 Section 16. This act shall become law upon approval by the
2 President of the Federated States of Micronesia or upon its
3 becoming law without such approval.

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March 16, 2012

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Manny Mori
President
Federated States of Micronesia

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