A BILL FOR AN ACT

To further amend section 104 of title 11 of the Code of the Federated States of Micronesia, as amended by Public Laws Nos. 11-72 and 11-76, and create a new subchapter III under chapter 6 to require the registration of deportees convicted of crimes in foreign countries, to provide penalties for failure to register, and in order to bring within definition of national crime the failure to register as a deportee, and for other purposes.

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

1. Section 1. Title 11 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by creating a new subchapter III under chapter 6 entitled “Registration of Deportees”.

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

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

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

“Section 632. Definition. As used in this section, the term “convicted” means, with respect to a person’s felony or misdemeanor offense, a determination or guilt, which is the result of a trial or the entry of a plea of guilty or nolo contendere, regardless of whether adjudication is withheld.”

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

“Section 633. Registration of deportees; exemptions; penalties.

(1) Any person who has been convicted of a felony or misdemeanor in any foreign territory, commonwealth, or country shall, within 72 hours after entering the Federated States of Micronesia, register with the National Police, be fingerprinted and photographed, and list the crime for which convicted, place of conviction, sentence imposed, if any, name,
aliases, if any, address, and occupation.

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

(a) Who has received a full pardon for the

offense for which convicted; or

(b) Who has been lawfully released from

incarceration or other sentence or supervision for a

felony or misdemeanor conviction, whichever is later

in time, for more than 5 years prior to such time for

registration, unless the offender is a fugitive from

justice on a felony charge or has been convicted of

any offense since release from such incarceration or

other sentence or supervision.

(3) Deportees who were deported to the Federated

States of Micronesia prior to the entry of this Act

shall have their information entered into the

National Police registration system by the National

Police together with a scanned copy of the deporting

documents.

(4) The failure of any such convicted person to

comply with this section with regard to any offender

not listed in subsection 3 of this section

constitutes a misdemeanor punishable under chapter 1

and chapter 12 of this title.

(5) A person convicted under this section shall be

imprisoned for not more than one year.
(6) Nothing in this section shall be construed to affect any law of the Federated States of Micronesia relating to registration of criminals where the penalties for registration, notification, or reporting obligations are in addition to, or in excess of, those imposed by this section."

Section 5. Section 104 title 11 of the Code of the Federated States of Micronesia, as amended by Public Laws Nos. 11-72 and 11-76, is hereby further amended to read as follows:

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

(a) imprisonment; or

(b) fine.

(2) 'Criminal negligence' means to engage in conduct which creates a substantial and unjustifiable risk of bodily injury to another, or to engage in conduct which constitutes gross deviation from the standard of care that a reasonable person would exercise, which conduct causes the criminal result.

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

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

(5) 'Knowledge' means being aware of the nature of the conduct or omission or of the existing circumstances, or believing that a fact exists which brings the conduct or omission within the provisions of this code. It does into require any knowledge of the unlawfulness of such conduct or omission.

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

(7) 'National crime' means:

(a) any crime, which is

   (i) inherently national in character and defined anywhere in this title; [ο]

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

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

   (i) the crime is committed in the exclusive economic zone of the Federated States of Micronesia as defined in title 18 of this Code;

   (ii) the crime is committed in the airspace above the territory comprising the Federated States of Micronesia as defined in article I, section 1 of the FSM Constitution;
(iii) the crime is committed on any airborne vehicle of the National Government, regardless of that vehicle’s location;

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

(v) the crime is committed on any watergoing vessel of the National Government regardless of that vessel’s location;

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

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

(viii) the crime is committed by a national public official or public servant while that person is engaged in his or her official duties or in violation of a fiduciary duty;

(ix) the crime involves property belonging to the National Government; [or]
(x) the crime is committed against any person participating in or attempting to participate in a national election; or

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

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

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

(10) 'Principal' means a person who commits or participates in the commission of a crime and shall include a co-conspirator, accomplice or an aid or abettor.

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

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

(13) ‘Serious bodily injury’ means bodily injury
which creates a high probability of death or which
causes serious permanent disfigurement or which
causes a permanent or protracted loss or impairment
of the function of any bodily member or organ, or
other bodily injury of like severity.

(14) ‘Willfully’ means to act with a purpose or
willingness to commit an act, or to make an omission.
It does not require any intent to violate the law, or
to injure another, or to acquire any advantage.

(15) ‘Property’ shall mean both real and personal
property."

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

Date: 9/25/13 Introduced by: /s/ Florencio S. Harper
Florencio S. Harper (by request)