
A BILL FOR AN ACT

To further amend title 11 of the Code of the Federated States of Micronesia (Annotated), as amended, by creating a new chapter 15 thereof, entitled: "Electronic and computer related offenses"; inserting new sections 1501 through 1533 in the newly created chapter 15 to incorporate statutory provisions concerning the so-called cybercrimes; defining new national crimes considered as cybercrimes, including the following crimes: Illegal Access, Illegal Remaining, Illegal Interception, Illegal Interference, Data Espionage, Illegal System Interference, Illegal Devices, Computer-Related Forgery, Computer-Related Fraud, Child Pornography, Pornography, Identity-Related Crimes, Spam, Disclosure of Details of an Investigation, Failure to Permit Assistance, Harassment Utilizing Means of Electronic Communication; prescribing the corresponding penalties for violations of these national crimes; establishing jurisdiction over cybercrimes; permitting the Supreme Court of the Federated States of Micronesia to issue rules governing the admissibility of electronic evidence; mandating the Secretary of Justice to issue appropriate rules to implement this act and to protect civil rights; 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 (Annotated), as amended, is hereby further amended by
3 creating a new chapter 15 entitled, "Electronic and computer
4 related offenses".

5 Section 2. Title 11 of the Code of the Federated States of
6 Micronesia (Annotated), as amended, is hereby further amended by
7 inserting section 1501 to chapter 15 to read as follows:

8 **"Section 1501. Definition.**

9 (1) "Access provider" means any natural or legal
10 person providing an electronic data transmission
11 service by transmitting information provided by or to

1 a user of the service in a communication network or
2 providing access to a communication network;

3 (2) "Caching [service] provider" means any natural
4 or legal person providing an electronic data
5 transmission service by automatic, intermediate and
6 temporary storing information, performed for the sole
7 purpose of making more efficient the information's
8 onward transmission to other users of the service
9 upon their request;

10 (3) "Child" shall mean any person under the age of
11 eighteen (18) years;

12 (4) "Child pornography" means pornographic
13 material that depicts, presents or represents a child
14 engaged in sexually explicit conduct. This includes,
15 but is not limited to, any audio, visual or text
16 pornographic material.

17 (5) "Critical infrastructure" means electronic
18 systems, devices, networks, computer programs,
19 electronic data, so vital to the country that the
20 incapacity or destruction of or interference with
21 such systems and assets would have a debilitating
22 impact on security, national or economic security,
23 national public health and safety, or any combination
24 of those matters;

25 (6) "Department" means the Department of

1 Transportation, Communications and Infrastructure;

2 (7) "Device" includes but is not limited to:

3 (a) components of electronic systems such as
4 computer, graphic cards, memory, chips;

5 (b) storage components such as hard drives,
6 memory cards, compact discs, tapes;

7 (c) input devices such as keyboards, mouse,
8 track pad, scanner, digital cameras; and

9 (d) output devices such as printer, screens;

10 (8) "Electronic system" (or computer system) means
11 a device or a group of inter-connected or related
12 devices, including the internet, one or more of
13 which, pursuant to a program, performs automatic
14 processing of data or any other function;

15 (9) "Electronic data" (or computer data) means any
16 representation of facts, concepts, information (being
17 either texts, sounds or images) machine-readable code
18 or instructions, in a form suitable for processing in
19 an electronic system, including a program suitable to
20 cause an electronic system to perform a function;

21 (10) "Electronic data storage medium" (or computer
22 data storage media) means any article or material
23 (for example, a disk) from which information is
24 capable of being reproduced, with or without the aid
25 of any other article or device.

1 (11) "Hinder" in relation to an electronic system
2 includes but is not limited to:

3 (a) cutting the electricity supply to an
4 electronic system; and

5 (b) causing electromagnetic interference to
6 an electronic system; and

7 (c) corrupting an electronic system by any
8 means; and

9 (d) inputting, transmitting, damaging,
10 deleting, deteriorating, altering or suppressing
11 electronic data;

12 (12) "Hosting provider" means any natural or legal
13 person providing an electronic data transmission
14 service by storing of information provided by a user
15 of the service;

16 (13) "Hyperlink" means characteristic or property
17 of an element such as symbol, word, phrase, sentence,
18 or image that contains information about another
19 source and points to and causes to display another
20 document when executed;

21 (14) "Interception" includes but is not limited to
22 the acquiring, viewing and capturing of any
23 electronic data communication whether by wire,
24 wireless, electronic, optical, magnetic, oral, or
25 other means, during transmission through the use of

1 any technical device;

2 (15) "Law enforcement officer" means the Secretary
3 of Justice, a prosecutor, the chief of national
4 police, or any police officer of the national
5 government of the Federated States of Micronesia;

6 (16) "Multiple electronic messages" mean a mail
7 message including E-Mail and instant messaging sent
8 to more than one thousand recipients; [consider:
9 MASS EM]

10 (17) "Remote forensic tool" means an investigative
11 tool such as software installed on or applied with
12 regard to an electronic system and used to perform
13 [remote] tasks that include but are not limited to
14 keystroke logging or transmission of an IP-address;
15 [type of ...to perform remote task [consider: digital
16 forensic tool]

17 (18) "Seize" includes:

18 (a) activating any onsite electronic system
19 and electronic data storage media;

20 (b) making and retaining a copy of electronic
21 data, including by using onsite equipment;

22 (c) maintaining the integrity of the relevant
23 stored electronic data;

24 (d) rendering inaccessible, or removing,
25 electronic data in the accessed electronic system;

1 (e) taking a printout of output of electronic
2 data; or

3 (f) seizing or similarly securing an
4 electronic system or part of it or an electronic data
5 storage medium;

6 (19) "Internet service provider" means a natural or
7 legal person that provides to users with services as
8 access provider, hosting provider, caching provider,
9 hyperlink provider, search engine provider mentioned
10 in subsection (2) and (3) of section 1528 and
11 sections 1529, 1530 and 1531 hereof;

12 (20) "Traffic data" means electronic data that:

13 (a) relates to a communication by means of an
14 electronic system; and

15 (b) is generated by an electronic system that
16 is part of the chain of communication ; and

17 (c) shows the communication's origin,
18 destination, route, time, date, size, duration or the
19 type of underlying services;

20 (21) "Thing" includes but not limited to:

21 (a) an electronic system or part of an
22 electronic system;

23 (b) another electronic system, if:

24 (1) electronic data from that electronic
25 system is available to the first electronic system

1 being searched; and

2 (2) there are reasonable grounds for
3 believing that the electronic data sought is stored
4 in the other electronic system; and

5 (c) an electronic data storage medium.

6 (22) "Utilize" includes:

7 (a) developing of a remote forensic tool;

8 (b) adopting of a remote forensic tool; and

9 (c) purchasing of a remote forensic tool."

10 Section 3. Title 11 of the Code of the Federated States of
11 Micronesia (Annotated), as amended, is hereby further amended by
12 inserting section 1502 to chapter 15 to read as follows:

13 **"Section 1502. Illegal access.**

14 (1) A person who intentionally, without lawful
15 excuse or justification or in excess of a lawful
16 excuse or justification, accesses the whole or any
17 part of an electronic system commits an offense
18 punishable on conviction by imprisonment for a period
19 not exceeding five years or a fine not exceeding
20 \$5,000, or both.

21 (2) Whenever the offense in subsection (1) of this
22 section is committed by accessing a protected
23 computer, the applicable penalty upon conviction is
24 imprisonment for a period not exceeding ten years, or
25 a fine not exceeding \$10,000, or both."

1 Section 4. Title 11 of the Code of the Federated States of
2 Micronesia (Annotated), as amended, is hereby further amended by
3 inserting section 1503 to chapter 15 to read as follows:

4 **"Section 1503. Illegal remaining.**

5 (1) A person who intentionally, without lawful
6 excuse or justification or in excess of a lawful
7 excuse or justification, remains logged in an
8 electronic system or part of an electronic system or
9 continues to use an electronic system commits an
10 offense punishable, on conviction, by imprisonment
11 for a period not exceeding five years, or a fine not
12 exceeding \$5,000, or both."

13 Section 5. Title 11 of the Code of the Federated States of
14 Micronesia (Annotated), as amended, is hereby further amended by
15 inserting section 1504 to chapter 15 to read as follows:

16 **"Section 1504. Illegal interception.**

17 (1) A person who, intentionally without lawful
18 excuse or justification or in excess of a lawful
19 excuse or justification, intercepts by technical
20 means:

21 (a) any non-public transmission to, from or
22 within an electronic system; or

23 (b) electromagnetic emissions from an
24 electronic system,
25 commits an offense punishable, on conviction, by

1 imprisonment for a period not exceeding five years,
2 or a fine not exceeding \$5,000, or both."

3 Section 6. Title 11 of the Code of the Federated States of
4 Micronesia (Annotated), as amended, is hereby further amended by
5 inserting section 1505 to chapter 15 to read as follows:

6 **"Section 1505. Illegal Interference.**

7 (1) A person who, intentionally without lawful
8 excuse or justification or in excess of a lawful
9 excuse or justification, does any of the following
10 acts:

11 (a) damages or deteriorates electronic data;

12 or

13 (b) deletes electronic data; or

14 (c) alters electronic data; or

15 (d) renders electronic data meaningless,
16 useless or ineffective; or

17 (e) obstructs, interrupts or interferes with
18 the lawful use of electronic data; or

19 (f) obstructs, interrupts or interferes with
20 any person in the lawful use of electronic data; or

21 (g) denies access to electronic data to any
22 person authorized to access it;

23 commits an offence punishable, on conviction, by
24 imprisonment for a period not exceeding five years,
25 or a fine not exceeding \$5,000, or both."

1 Section 7. Title 11 of the Code of the Federated States of
2 Micronesia (Annotated), as amended, is hereby further amended by
3 inserting section 1506 to chapter 15 to read as follows:

4 **"Section 1506. Data Espionage.**

5 (1) A person who, intentionally without lawful
6 excuse or justification or in excess of a lawful
7 excuse or justification obtains, for himself or for
8 another, electronic data which are not meant for him,
9 and which are specially protected against
10 unauthorized access, commits an offence punishable,
11 on conviction, by imprisonment for a period not
12 exceeding five years, or a fine not exceeding \$5,000,
13 or both."

14 Section 8. Title 11 of the Code of the Federated States of
15 Micronesia (Annotated), as amended, is hereby further amended by
16 inserting section 1507 to chapter 15 to read as follows:

17 **"Section 1507. Illegal System Interference.**

18 (1) A person who intentionally, without lawful
19 excuse or justification or in excess of a lawful
20 excuse or justification:

21 (a) hinders or interferes with the
22 functioning of an electronic system; or

23 (b) hinders or interferes with a person who
24 is lawfully using or operating an electronic system;
25 commits an offense punishable, on conviction, by

1 imprisonment for a period not exceeding two years, or
2 a fine not exceeding \$2,000, or both.

3 (2) A person who intentionally, without lawful
4 excuse or justification or in excess of a lawful
5 excuse or justification hinders or interferes with an
6 electronic system that is exclusively for the use of
7 critical infrastructure operations, or in the case in
8 which such is not exclusively for the use of critical
9 infrastructure operations, but it is used in critical
10 infrastructure operations and such conduct affects
11 that use or impacts the operations of critical
12 infrastructure the punishment shall be imprisonment
13 for a period not exceeding five years, or a fine not
14 exceeding \$5,000, or both."

15 Section 9. Title 11 of the Code of the Federated States of
16 Micronesia (Annotated), as amended, is hereby further amended by
17 inserting section 1508 to chapter 15 to read as follows:

18 "Section 1508. Illegal Devices.

19 (1) A person commits an offense if the person:

20 (a) intentionally, without lawful excuse or
21 justification or in excess of a lawful excuse or
22 justification, produces, sells, procures for use,
23 imports, exports, distributes or otherwise makes
24 available:

25 (1) a device defined in subsection (7)

1 section 1501, including an electronic program that is
2 designed or adapted for the purpose of committing an
3 offense under this chapter; or

4 (2) a password, access code or similar
5 data by which the whole or any part of an electronic
6 system is capable of being accessed;

7 that is contained in a schedule published by the
8 Department with the intent that it be used by any
9 person for the purpose of committing an offense
10 defined by other provisions of this chapter; or

11 (b) has an item mentioned in subparagraph (1)
12 or (2) of paragraph (a) of subsection (1) of this
13 section in his or her possession with the intent that
14 it be used by any person including himself or herself
15 for the purpose of committing an offense defined
16 under this chapter commits an offense punishable, on
17 conviction, by imprisonment for a period not
18 exceeding two years, or a fine not exceeding \$2,000,
19 or both.

20 (2) This provision shall not be interpreted as
21 imposing criminal liability where the production,
22 sale, procurement for use, import, distribution or
23 otherwise making available or possession referred to
24 in paragraph 1 is not for the purpose of committing
25 an offense under this chapter, such as for the

1 authorized testing or protection of an electronic
2 system.

3 (3) The Department is authorized to edit or update
4 the schedule referred to in subsection (1)."

5 Section 10. Title 11 of the Code of the Federated States
6 of Micronesia (Annotated), as amended, is hereby further amended
7 by inserting section 1509 to chapter 15 to read as follows:

8 "Section 1509. Computer-Related Forgery.

9 (1) A person who intentionally, without lawful
10 excuse or justification or in excess of a lawful
11 excuse or justification inputs, alters, deletes, or
12 suppresses electronic data, resulting in inauthentic
13 data with the intent that it be considered or acted
14 upon for legal purposes as if it were authentic,
15 regardless whether or not the data is directly
16 readable and intelligible commits an offense
17 punishable, on conviction, by imprisonment for a
18 period not exceeding two years, or a fine not
19 exceeding \$2,000, or both.

20 (2) If the abovementioned offense is committed by
21 sending out multiple electronic messages from or
22 through electronic systems, the penalty shall be
23 imprisonment for a period not exceeding three years,
24 or a fine not exceeding \$3,000, or both."

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

1 Micronesia (Annotated), as amended, is hereby further amended by
2 inserting section 1510 to chapter 15 to read as follows:

3 **"Section 1510. Computer-Related Fraud.**

4 (1) A person who intentionally, without lawful
5 excuse or justification or in excess of a lawful
6 excuse or justification causes a loss of property to
7 another person by:

8 (a) any input, alteration, deletion or
9 suppression of electronic data;

10 (b) any interference with the functioning of
11 an electronic system,

12 (c) with fraudulent or dishonest intent of
13 procuring, without right, an economic benefit for
14 oneself or for another person;
15 commits an offense punishable, on conviction, by
16 imprisonment for a period not exceeding two years, or
17 a fine not exceeding \$2,000, or both."

18 Section 12. Title 11 of the Code of the Federated States
19 of Micronesia (Annotated), as amended, is hereby further amended
20 by inserting section 1511 to chapter 15 to read as follows:

21 **"Section 1511. Child Pornography.**

22 (1) A person who intentionally, without lawful
23 excuse or justification:

24 (a) produces child pornography for the
25 purpose of its distribution through an electronic

1 system;

2 (b) offers or makes available to another
3 child pornography through an electronic system;

4 (c) distributes or transmits child
5 pornography through an electronic system;

6 (d) procures or obtain child pornography
7 through an electronic system for oneself or for
8 another person; or

9 (e) possesses child pornography in an
10 electronic system or on a data storage medium; and

11 (2) knowingly obtains access, through information
12 and communication technologies, to child pornography,
13 commits an offense punishable, on conviction, by
14 imprisonment for a period not exceeding two years, or
15 a fine not exceeding \$2,000, or both.

16 (3) It is a defense to a charge of an offense
17 under paragraph (a) to (e) of clause (1) if the
18 person establishes that the child pornography was a
19 bona fide law enforcement purpose. If child
20 pornography was stored for such purpose, the
21 authorized persons need to ensure that it is deleted
22 as soon as it is no longer required or needed for law
23 enforcement purposes."

24 Section 13. Title 11 of the Code of the Federated States
25 of Micronesia (Annotated), as amended, is hereby further amended

1 by inserting section 1512 to chapter 15 to read as follows:

2 **"Section 1512. Pornography.**

3 (1) A person who intentionally, without lawful
4 excuse or justification:

5 (a) produces pornography for the purpose of
6 its distribution through an electronic system;

7 (b) offers or makes available to another
8 pornography through an electronic system; or

9 (c) distributes or transmits pornography
10 through an electronic system, commits an offense
11 punishable, on conviction, by imprisonment for a
12 period not exceeding two years, or a fine not
13 exceeding \$2,000, or both."

14 Section 14. Title 11 of the Code of the Federated States
15 of Micronesia (Annotated), as amended, is hereby further amended
16 by inserting section 1513 to chapter 15 to read as follows:

17 **"Section 1513. Identity-Related Crimes.**

18 (1) A person who, intentionally without lawful
19 excuse or justification or in excess of a lawful
20 excuse or justification by using an electronic system
21 in any stage of the offense, intentionally transfers,
22 possesses, or uses, without lawful excuse or
23 justification, a means of identification of another
24 person with the intent to commit, or to aid or abet,
25 or in connection with, any unlawful activity that

1 constitutes a crime, commits an offense punishable,
2 on conviction, by imprisonment for a period not
3 exceeding two years, or a fine not exceeding \$2,000,
4 or both."

5 Section 15. Title 11 of the Code of the Federated States
6 of Micronesia (Annotated), as amended, is hereby further amended
7 by inserting section 1514 to chapter 15 to read as follows:

8 "Section 1514. Spam.

9 (1) A person who, intentionally without lawful
10 excuse or justification:

11 (a) initiates the transmission of multiple
12 electronic messages from or through such electronic
13 system with the intent to deceive or mislead users;
14 or

15 (b) uses a protected electronic system to
16 relay or retransmit multiple electronic messages,
17 with the intent to deceive or mislead users, or any
18 electronic mail or Internet service provider, as to
19 the origin of such messages, or

20 (c) materially falsifies header information
21 in multiple electronic messages and intentionally
22 initiates the transmission of such messages,
23 commits an offense punishable, on conviction, by
24 imprisonment for a period not exceeding 1 year, or a
25 fine not exceeding \$1,000, or both.

1 Section 16. Title 11 of the Code of the Federated States
2 of Micronesia (Annotated), as amended, is hereby further amended
3 by inserting section 1515 to chapter 15 to read as follows:

4 **“Section 1515. Disclosure of Details of a criminal**
5 **investigation.**

6 (1) An Internet service provider who receives a
7 court order related to a criminal investigation
8 intentionally without lawful excuse or justification
9 or in excess of a lawful excuse or justification
10 discloses:

11 (a) the fact that an order has been made; or

12 (b) anything done under the order; or

13 (c) any data collected or recorded under the
14 order, commits an offense punishable, on conviction,
15 by imprisonment for a period not exceeding two years,
16 or a fine not exceeding \$2,000, or both.”

17 Section 17. Title 11 of the Code of the Federated States
18 of Micronesia (Annotated), as amended, is hereby further amended
19 by inserting section 1516 to chapter 15 to read as follows:

20 **“Section 1516. Failure to Permit Assistance.**

21 (1) A person other than the suspect who
22 intentionally fails without lawful excuse or
23 justification or in excess of a lawful excuse or
24 justification to permit or assist a person based on
25 an order referred to in sections 1523, 1524, 1525 and

1 1526 commits an offense punishable, on conviction, by
2 imprisonment for a period not exceeding 1 year, or a
3 fine not exceeding \$1,000, or both."

4 Section 18. Title 11 of the Code of the Federated States
5 of Micronesia (Annotated), as amended, is hereby further amended
6 by inserting section 1517 to chapter 15 to read as follows:

7 "Section 1517. Harassment Utilizing Means Of Electronic
8 Communication.

9 (1) A person, who initiates any electronic
10 communication, with the intent to coerce, intimidate,
11 harass, or cause substantial emotional distress to a
12 person, using an electronic system to support severe,
13 repeated, and hostile behavior, commits an offense
14 punishable, on conviction, by imprisonment for a
15 period not exceeding 1 year, or a fine not exceeding
16 \$1,000, or both.

17 (2) If the act of coercion, intimidation or
18 harassment consists of threats of exposing
19 pornographic material, then the penalty on conviction
20 is by imprisonment for a period not exceeding five
21 years, or a fine not exceeding \$5,000, or both,"

22 Section 19. Title 11 of the Code of the Federated States
23 of Micronesia (Annotated), as amended, is hereby further amended
24 by inserting section 1518 to chapter 15 to read as follows:

25 "Section 1518. Jurisdiction.

1 (1) This Act applies to an act done or an omission
2 made:

3 (a) in the territory of the Federated States
4 of Micronesia; or

5 (b) on a ship or aircraft registered in the
6 Federated States of Micronesia; or

7 (c) by a national or citizen of the Federated
8 States of Micronesia outside the jurisdiction of any
9 country; or

10 (d) by a national of the Federated States of
11 Micronesia outside the territory of the Federated
12 States of Micronesia, if the person's conduct would
13 also constitute an offense under a law of the country
14 where the offense was committed."

15 Section 20. Title 11 of the Code of the Federated States
16 of Micronesia (Annotated), as amended, is hereby further amended
17 by inserting section 1519 to chapter 15 to read as follows:

18 **"Section 1519. Electronic Evidence.**

19 (1) In proceedings for an offense against a law of
20 the Federated States of Micronesia, the fact that
21 evidence has been generated from an electronic system
22 does not by itself prevent that evidence from being
23 admitted in any legal proceeding.

24 (2) The Supreme Court of the Federated States of
25 Micronesia may promulgate appropriate rules of

1 evidence governing the admissibility of electronic
2 evidence.”

3 Section 21. Title 11 of the Code of the Federated States
4 of Micronesia (Annotated), as amended, is hereby further amended
5 by inserting section 1520 to chapter 15 to read as follows:

6 **“Section 1520. Search and Seizure.**

7 (1) If a Supreme Court judge is satisfied on the
8 basis of affidavit that there are reasonable grounds
9 to believe that there may be in a place a thing or
10 electronic data:

11 (a) that may be material as evidence in
12 proving an offense; or

13 (b) that has been acquired by a person as a
14 result of an offense, a warrant may be issued
15 authorizing a law enforcement officer, with such
16 assistance as may be necessary, to enter the place to
17 search and seize the thing or electronic data
18 including search or similarly access:

19 (1) an electronic system or part of it
20 and electronic data stored therein; and

21 (2) an electronic-data storage medium in
22 which electronic data may be stored in the territory
23 of the country.

24 (2) Any person who makes a search or seizure under
25 this section, shall at the time or as soon as

1 practicable:

2 (a) make a list of what has been seized, with
3 the date and time of seizure; and

4 (b) provide such list to the occupier of the
5 premises or the person in control of such electronic
6 devices.

7 (3) Subject to subsection (4) of this section on
8 request, any law enforcement officer or another
9 authorized person shall:

10 (a) permit a person who had the custody or
11 control of the electronic devices, or someone acting
12 on their behalf to access and copy electronic data on
13 the system; or

14 (b) give the person a copy of the electronic
15 data.

16 (4) The law enforcement officer or another
17 authorized person may refuse to give access or
18 provide copies if he or she has reasonable grounds
19 for believing that giving the access, or providing
20 the copies may

21 (a) constitute a criminal offense; or

22 (b) prejudice:

23 (1) the investigation in connection with
24 which the search was carried out;

25 (2) another ongoing investigation; or

1 (3) any criminal proceedings that are
2 pending or that may be brought in relation to any of
3 those investigations.

4 (5) If law enforcement officer that is undertaking
5 a search based on subsection (1) of this section has
6 grounds to believe that the data sought is stored in
7 another electronic system or part of it in its
8 territory, and such data is lawfully accessible from
9 or available to the initial system, he or she shall
10 be able to expeditiously extend the search or similar
11 accessing to the other system.

12 (6) Law enforcement officer that is undertaking a
13 search is empowered to seize or similarly secure
14 electronic data accessed according to paragraph (a)
15 and (b) of subsection (2)."

16 Section 22. Title 11 of the Code of the Federated States
17 of Micronesia (Annotated), as amended, is hereby further amended
18 by inserting section 1521 to chapter 15 to read as follows:

19 **"Section 1521. Assistance.**

20 (1) A person who is not a suspect of a crime but
21 is in possession or control of an electronic device
22 or electronic data that is the subject of a search
23 under section 1 shall permit, and assist if required,
24 the law enforcement officer making the search to:

25 (a) access and use an electronic device or

1 electronic data;

2 (b) obtain and copy that electronic data;
3 use an electronic device to make copies; and
4 obtain an intelligible output from an electronic
5 device in a format that can be read.”

6 Section 23. Title 11 of the Code of the Federated States
7 of Micronesia (Annotated), as amended, is hereby further amended
8 by inserting section 1522 to chapter 15 to read as follows:

9 **“Section 1522. Production Order.**

10 (1) Where any justice of the Supreme Court on
11 application by any law enforcement officer that
12 specified electronic data or a printout or other
13 information is reasonably required for the purpose of
14 a criminal investigation or criminal proceedings, may
15 order:

16 (a) a person in control of an electronic
17 device or network of electronic devices to produce
18 specified electronic data or printout of such
19 information; and

20 (b) an Internet service provider to produce
21 information about persons who subscribe to or use
22 their services.”

23 Section 24. Title 11 of the Code of the Federated States
24 of Micronesia (Annotated), as amended, is hereby further amended
25 by inserting section 1523 to chapter 15 to read as follows:

1 **"Section 1523. Expedited Preservation.**

2 (1) Where any law enforcement officer is satisfied
3 that:

4 (a) electronic data stored in an electronic
5 device is reasonably required for the purpose of a
6 criminal investigation; and

7 (b) there is a risk that the data may be
8 destroyed or rendered inaccessible;

9 (c) the law enforcement officer may issue an
10 order, by written notice given to a person in control of
11 the electronic device, requiring the person to ensure
12 that the data specified in the order be preserved for a
13 period of up to 7 days as specified in the notice.

14 The judge may upon application authorize an extension
15 not exceeding 14 days."

16 Section 25. Title 11 of the Code of the Federated States
17 of Micronesia (Annotated), as amended, is hereby further amended
18 by inserting section 1524 to chapter 15 to read as follows:

19 **"Section 1524. Partial Disclosure Of Traffic Data.**

20 (1) Where a judge is satisfied on the basis of an
21 application by any law enforcement officer that
22 specified data stored in an electronic device or system
23 of electronic devices is required for the purpose of a
24 criminal investigation or criminal proceedings, the
25 judge may order such person to disclose sufficient

1 traffic data

2 (a) about a specified communication to identify:

3 (1) the service providers; and

4 (2) the path through which the

5 communication was transmitted.”

6 Section 26. Title 11 of the Code of the Federated States
7 of Micronesia (Annotated), as amended, is hereby further amended
8 by inserting section 1525 to chapter 15 to read as follows:

9 “Section 1525. Collection Of Traffic Data.

10 (1) Where any judge is satisfied on the basis of
11 affidavit that traffic data associated with a specified
12 communication is reasonably required for the purposes of
13 a criminal investigation, a law enforcement officer may
14 issue an order, by written notice given to a person in
15 control of such data, requiring that person to:

16 (a) collect or record traffic data associated
17 with a specified communication during a specified
18 period; and

19 (b) permit and assist law enforcement officer to
20 collect or record that data.

21 (2) Where a justice of the Supreme Court is satisfied
22 on the evidence that there are reasonable grounds to
23 suspect that traffic data is reasonably required for the
24 purposes of a criminal investigation, he or she may
25 authorize any law enforcement officer to collect or

1 record traffic data associated with a specified
2 communication during a specified period through
3 application of technical means.”

4 Section 27. Title 11 of the Code of the Federated States
5 of Micronesia (Annotated), as amended, is hereby further amended
6 by inserting section 1526 to chapter 15 to read as follows:

7 **“Section 1526. Interception Of Content Data.**

8 (1) Where any justice of the Supreme Court is
9 satisfied on the basis of affidavit that there are
10 reasonable grounds believe that the content of
11 electronic communications is reasonably required for the
12 purposes of a criminal investigation, the justice may:

13 (a) order an Internet service provider or mobile
14 service provider whose service is available in the
15 Federated States of Micronesia through application of
16 technical means to collect or record, to permit or
17 assist competent authorities with the collection or
18 recording of content data associated with specified
19 communications transmitted by means of a electronic
20 system; or

21 (b) authorize a law enforcement officer to
22 collect or record that data through application of
23 technical means.”

24 Section 28. Title 11 of the Code of the Federated States
25 of Micronesia (Annotated), as amended, is hereby further amended

1 by inserting section 1527 to chapter 15 to read as follows:

2 **"Section 1527. Forensic Software.**

3 (1) If a justice of the Supreme Court is satisfied on
4 the basis of affidavit that an investigation concerning
5 a possible offense listed in subsection (8) of this
6 section necessitates the use of a remote forensic
7 software, he or she may issue an order authorizing the
8 use of remote forensic software in connection with an
9 investigation and install it on the suspect's electronic
10 system in order to collect the relevant evidence. An
11 order issued under this subsection requires the filing
12 of an application containing the following information:

13 (a) suspect of the offense, if possible with
14 name and address;

15 (b) description of the targeted electronic
16 system;

17 (c) description of the intended measure, extent
18 and duration of the utilization; and

19 (d) reasons for the necessity of the
20 utilization.

21 (2) During an investigation, any modifications to the
22 electronic system of the suspect shall be limited only
23 to what is required by or essential to a criminal
24 investigation. Investigators shall ensure that any
25 changes could be undone after the end of the

1 investigation. During the investigation it is necessary
2 to log:

3 (a) the technical means used and time and date
4 of the application;

5 (b) the identification of the electronic system
6 and details of the modifications undertaken within the
7 investigation; and

8 (c) any information obtained.

9 (3) Information obtained by the use of a remote
10 forensic software need to be protected against any
11 modification, unauthorized deletion and unauthorized
12 access.

13 (4) The duration of authorization in subsection (1)
14 is limited to 3 months. If the conditions of the
15 authorization are no longer met, the actions taken are
16 to stop immediately.

17 (5) The authorization to install the software
18 includes remotely accessing the suspects electronic
19 system.

20 (6) If the installation process requires physical
21 access to a place the requirements of section 26 need to
22 be fulfilled.

23 (7) If necessary, a police officer may pursuant to
24 the order of court granted in (1) above requests that
25 the court order an Internet service provider to support

1 the installation process.

2 (8) The offenses subject to the application of
3 subsection (1) are as follows:

4 (a) Offenses related to child pornography

5 (b) Offences related to bribery and corruption

6 (c) Offenses related to banking and insurance
7 matters

8 (d) Offenses related to money laundering and
9 terrorist financing.”

10 Section 29. Title 11 of the Code of the Federated States
11 of Micronesia (Annotated), as amended, is hereby further amended
12 by inserting section 1528 to chapter 15 to read as follows:

13 “Section 1528. Liability.

14 (1) No Monitoring Obligation. Internet service
15 providers do not have a general obligation to monitor
16 the information which they transmit or store on behalf
17 of another, nor do they have a general obligation to
18 actively seek facts or circumstances indicating illegal
19 activity to avoid criminal liability. This provision
20 does not affect the possibility for a court or
21 administrative authority to require an Internet service
22 provider to terminate or prevent an infringement based
23 on any law enacted by Congress within the Federated
24 States of Micronesia.

25 (2) Access Provider. An access provider is not

1 criminally liable for providing access and transmitting
2 information on condition that the provider:

3 (a) does not initiate the transmission;

4 (b) does not select the receiver of the
5 transmission; or

6 (c) does not select or modify the information
7 contained in the transmission.

8 (d) The acts of transmission and of provision of
9 access referred to in subsection 2 include the
10 automatic, intermediate and transient storage of the
11 information transmitted in so far as this takes place
12 for the sole purpose of carrying out the transmission in
13 the communication network, and provided that the
14 information is not stored for any period longer than is
15 reasonably necessary for the transmission.

16 (3) Hosting Provider. A hosting provider is not
17 criminally liable for the information stored at the
18 request of a user of the service, on condition that:

19 (a) The hosting provider expeditiously removes
20 or disables access to the information after receiving an
21 order from any public authority or court of law to
22 remove specific illegal information stored; or

23 (b) The hosting provider upon obtaining
24 knowledge or awareness about specific illegal
25 information stored by other ways than an order from a

1 public authority, expeditiously informs a public
2 authority to enable them to evaluate the nature of the
3 information and if necessary issue an order to remove
4 the content.

5 (c) This subsection shall not apply when the
6 user of the service is acting under the authority or the
7 control of the hosting provider.

8 (d) If the hosting provider is removing the
9 content after receiving an order pursuant to subsection
10 1, it is exempted from contractual obligations with its
11 customer to ensure the availability of the service."

12 Section 30. Title 11 of the Code of the Federated States
13 of Micronesia (Annotated), as amended, is hereby further amended
14 by inserting section 1529 to chapter 15 to read as follows

15 **Section 1529. Caching provider.**

16 (1) A caching provider is not criminally liable for
17 the automatic, intermediate and temporary storage of
18 that information, performed for the sole purpose of
19 making more efficient the information's onward
20 transmission to other users of the service upon their
21 request, on condition that:

22 (a) The caching provider does not modify the
23 information;

24 (b) the caching provider complies with
25 conditions of access to the information;

1 (c) the caching provider complies with rules
2 regarding the updating of the information, specified in
3 a manner widely recognized and used by industry;

4 (d) the caching provider does not interfere with
5 the lawful use of technology, widely recognized and used
6 by industry, to obtain data on the use of the
7 information; and

8 (e) the caching provider acts expeditiously to
9 remove or to disable access to the information it has
10 stored upon obtaining actual knowledge of the fact that
11 the information at the initial source of the
12 transmission has been removed from the network, or
13 access to it has been disabled, or that a court or an
14 administrative authority has ordered such removal or
15 disablement."

16 Section 31. Title 11 of the Code of the Federated States
17 of Micronesia (Annotated), as amended, is hereby further amended
18 by inserting section 1530 to chapter 15 to read as follows:

19 **"Section 1530. Hyperlinks Provider.**

20 (1) An internet service provider who enables the
21 access to information provided by third person by
22 providing an electronic hyperlink is not liable for the
23 information if-

24 (a) The internet service provider expeditiously
25 removes or disables access to the information after

1 receiving an order from any public authority or court to
2 remove the link; and

3 (b) The internet service provider, upon
4 obtaining knowledge or awareness about specific illegal
5 information stored by other ways than an order from a
6 public authority, expeditiously informs a public
7 authority to enable them to evaluate the nature of the
8 information and if necessary issue an order to remove
9 the content."

10 Section 32. Title 11 of the Code of the Federated States
11 of Micronesia (Annotated), as amended, is hereby further amended
12 by inserting section 1531 to chapter 15 to read as follows:

13 **"Section 1531. Search Engine Provider.**

14 (1) A provider who makes or operates a search engine
15 that either automatically or based on entries by others,
16 creates and index of Internet-related content or makes
17 available electronic tools to search for information
18 provided by third party is not liable for search results
19 on conditions that the provider:

20 (a) does not initiate the transmission; and

21 (b) does not select the receiver of the
22 transmission; and

23 (c) does not select or modify the information
24 contained in the transmission."

25 Section 33. Title 11 of the Code of the Federated States

1 of Micronesia (Annotated), as amended, is hereby further amended
2 by inserting section 1532 to chapter 15 to read as follows:

3 **"Section 1532. Registration of Users.**

4 Internet service provider is required to register users
5 prior to the use of its service."

6 Section 34. Title 11 of the Code of the Federated States
7 of Micronesia (Annotated), as amended, is hereby further amended
8 by inserting section 1533 to chapter 15 to read as follows:

9 **"Section 1533. Duty of the Secretary of Justice.**

10 The Secretary of Justice of the Federated States of
11 Micronesia shall issue appropriate guidelines,
12 protocols and procedures to be observed by law
13 enforcement officers in implementing this chapter to
14 ensure not only the effective implementation of this
15 law but also to ensure the protection of civil
16 rights."

17 Section 35. This act shall become law upon approval by
18 the President of the Federated States of Micronesia or upon its
19 becoming law without such approval.

20

21 Date: 9/7/21

Introduced by: /s/ Florencio S. Harper
Florencio S. Harper
(by request)

22

23

24

25