

A BILL FOR AN ACT

To further amend title 11 of the Code of the Federated States of Micronesia, as amended, by adding a new chapter 14 for the purpose of providing for paroles and their revocation, 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 Micro-
2 nesia is hereby further amended by the addition of a new section 1401
3 of chapter 14 to read as follows:

4 "Section 1401. Application. The provisions of this act
5 shall be applicable to all persons serving a sentence of
6 incarceration for any National offense, or for any offense
7 for which the person incarcerated could have been sentenced
8 by the court to a term of more than 3 years. This act
9 provides the exclusive mechanism by which parole may be
10 granted in the Federated States of Micronesia."

11 Section 2. Title 11 of the Code of the Federated States of Micro-
12 nesia is hereby further amended by the addition of a new section 1402
13 of chapter 14 to read as follows:

14 "Section 1402. Authority in President. Any person to whom
15 the provisions of this act apply may be paroled by the
16 President of the Federated States of Micronesia as provided
17 in this act upon such terms and conditions as he may deem
18 best. Any person so paroled may have his parole revoked
19 by the Trial Division of the Supreme Court of the Federated
20 States of Micronesia as provided in this act. Before the
21 President acts upon applications for parole, he shall receive
22 the recommendation of the applicable board of paroles."

23 Section 3. Title 11 of the Code of the Federated States of Micro-
24 nesia is hereby further amended by the addition of a new section 1403
25 of chapter 14 to read as follows:

1 "Section 1403. Board of paroles. There is hereby
2 established in each State in the Federated States of Micro-
3 nesia a State board of paroles (hereinafter the 'board')
4 composed of five members appointed by the President of the
5 Federated States of Micronesia. The members of each board
6 shall annually select a chairman from among themselves."

7 Section 4. Title 11 of the Code of the Federated States of Micro-
8 nesia is hereby further amended by the addition of a new section 1404
9 of chapter 14 to read as follows:

10 "Section 1404. Qualifications. Persons appointed to the
11 board shall be residents of the respective State, shall not
12 be related by lineage or by clan, and shall otherwise have
13 the same qualifications as Members of Congress."

14 Section 5. Title 11 of the Code of the Federated States of Micro-
15 nesia is hereby further amended by the addition of a new section 1405
16 of chapter 14 to read as follows:

17 "Section 1405. Compensation. Members shall receive no
18 compensation for serving on the board, but shall be
19 reimbursed for reasonable expenses as approved by the
20 President incurred in the performance of their duties."

21 Section 6. Title 11 of the Code of the Federated States of Micro-
22 nesia is hereby further amended by the addition of a new section 1406
23 of chapter 14 to read as follows:

24 "Section 1406. Terms. Members of the boards of paroles
25 shall serve a term of 1 year from the date of appointment

1 and may thereafter serve at the discretion of the President."

2 Section 7. Title 11 of the Code of the Federated States of Micro-
3 nesia is hereby further amended by the addition of a new section 1407
4 of chapter 14 to read as follows:

5 "Section 1407. Meetings. The board shall meet at such times
6 as may be necessary for a full, complete, and prompt review
7 of all applications for parole. Three members of the board
8 shall constitute a quorum."

9 Section 8. Title 11 of the Code of the Federated States of Micro-
10 nesia is hereby further amended by the addition of a new section 1408
11 of chapter 14 to read as follows:

12 "Section 1408. Disqualification.

13 (1) Any member of the board may withdraw from
14 consideration in any case in which the member has a conflict,
15 such as:

16 (a) Close family relationship with the petitioner
17 for parole, or any victim of the petitioner's criminal
18 conduct;

19 (b) Financial relationship with the petitioner or
20 victim;

21 (c) Established close friendship with the
22 petitioner or victim; or

23 (d) Existence of any other factor which would
24 preclude such member from acting fairly or impartially upon
25 the particular petition being considered.

1 (2) Whenever a particular member of the board withdraws
2 or for any other reason is not able to perform his duties,
3 the President shall be informed in writing by the member.
4 The President shall then assign a member of another State
5 board to replace any disqualified member, or may appoint an ad
6 hoc member to serve during the disqualification, who other-
7 wise meets the qualifications listed in section 1404."

8 Section 9. Title 11 of the Code of the Federated States of Micro-
9 nesia is hereby further amended by the addition of a new section 1409 of
10 chapter 14 to read as follows:

11 "Section 1409. Duties of the board. The duty of each State
12 board of paroles is to receive petitions for parole for
13 persons incarcerated in the respective State and to conduct
14 hearings and inquiries in order to make recommendations
15 regarding the petition to the President."

16 Section 10. Title 11 of the Code of the Federated States of
17 Micronesia is hereby further amended by the addition of a new section
18 1410 of chapter 14 to read as follows:

19 "Section 1410. Parole eligibility. Any prisoner to whom
20 this act applies shall be eligible for parole upon completion
21 of one-third of the term of actual imprisonment, unless
22 convicted of a crime and sentenced under a statute which
23 precludes parole. Unless otherwise limited by specific
24 statutory provision, a prisoner serving a life sentence is
25 eligible for parole after serving 15 years of the sentence."

1 Section 11. Title 11 of the Code of the Federated States of
2 Micronesia is hereby further amended by the addition of a new section
3 1411 of chapter 14 to read as follows:

4 "Section 1411. Application.

5 (1) Not more than 90 days prior to the anticipated
6 eligibility date, a prisoner may petition the President for
7 parole. The President shall, within 12 days after receipt
8 of the petition, forward the petition to the applicable board
9 and notify the following of the petition:

10 (a) The Office of the Attorney General of the
11 Federated States of Micronesia;

12 (b) The office of the attorney general for any
13 State concerned;

14 (c) The chief of police for any State concerned;

15 (d) Probation officers from the State concerned;

16 (e) The victim or his family; and

17 (f) Any other person whose comments the President
18 feels would be of assistance to the board.

19 (2) Within 7 days of receipt of the petition, the
20 chairman shall write to the President acknowledging receipt
21 of the petition and informing the President of the date of
22 the parole hearing. If for any reason the hearing date is
23 rescheduled, the President will be informed in writing of the
24 change by the chairman."

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

1 Micronesia is hereby further amended by the addition of a new section
2 1412 of chapter 14 to read as follows:

3 "Section 1412. Contents of parole petition. The petition
4 shall indicate the prisoner's parole plan, setting forth
5 the manner of life the prisoner intends to lead if released
6 on parole, including such specific information as to where
7 and with whom the prisoner will reside and what occupation or
8 employment will be undertaken. The petition shall state the
9 sentence imposed, the date the minimum term was or will be
10 completed, and whether parole has ever been denied or revoked
11 during the present sentence. The petition may also include
12 other documents or affidavits indicating the willingness of
13 responsible members of the petitioner's family or community
14 to accept supervision of the petitioner or provide gainful
15 employment."

16 Section 13. Title 11 of the Code of the Federated States of
17 Micronesia is hereby further amended by the addition of a new section
18 1413 of chapter 14 to read as follows:

19 "Section 1413. Hearing. Upon receipt of the petition, the
20 board shall hold a hearing thereon. The board shall attempt
21 to hold such hearing within 60 days. Those people specified
22 in subsection (1) of section 1411 and any other people
23 selected by the board shall receive notice of the time and
24 place of the hearing. The hearing shall be conducted in an
25 informal manner. The prisoner shall be entitled to make a

1 presentation to the board and may be allowed by the board to
2 appear personally. The prisoner may choose to be assisted by
3 counsel."

4 Section 14. Title 11 of the Code of the Federated States of
5 Micronesia is hereby further amended by the addition of a new section
6 1414 of chapter 14 to read as follows:

7 "Section 1414. Criteria.

8 (1) Whenever the board considers the release of a
9 prisoner on parole, the board is authorized to recommend
10 release if a majority of the entire board is of the opinion
11 that:

12 (a) The release is compatible with public safety
13 and security;

14 (b) The release at that time would not deprecate
15 the seriousness of his crime or promote disrespect of the
16 law;

17 (c) The release would not have a substantially
18 adverse effect on institutional discipline; and

19 (d) The crime for which the prisoner stands
20 convicted was not committed at a time when the prisoner
21 was released on a previous parole.

22 (2) In making its recommendation regarding a prisoner's
23 release on parole, it shall be the policy of the board to
24 take into account each of the following factors:

25 (a) The ability and willingness of responsible

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- 1 members of the prisoner's family, clan, or community to
2 supervise the petitioner's activities if parole is granted
3 and to assure that the petitioner is gainfully occupied;
4 (b) The adequacy of the prisoner's parole plan;
5 (c) The prisoner's personality, including his
6 maturity, stability, sense of responsibility, and any
7 apparent development in his personality which may promote
8 or hinder his conformity to law;
9 (d) The prisoner's ability and readiness to
10 assume obligations and undertake responsibilities;
11 (e) The prisoner's intelligence and training;
12 (f) The prisoner's employment history, his skills,
13 and the stability of his past employment or occupation;
14 (g) The type of residence, neighborhood, or
15 community in which the prisoner plans to live;
16 (h) The prisoner's past use of narcotics or past
17 habitual and excessive use of alcohol;
18 (i) The prisoner's mental or physical makeup,
19 including any disability or handicap which may affect his
20 conformity to law;
21 (j) The prisoner's prior criminal record,
22 including the nature and circumstances, recency, and
23 frequency of previous offenses;
24 (k) The prisoner's attitude toward law and
25 authority;

1 (1) The prisoner's conduct in the institution, in-
2 cluding particularly whether he has taken advantage of the
3 opportunities for self-improvement afforded by the
4 institutional program, whether he has been punished for
5 misconduct within 6 months prior to his hearing or re-
6 consideration for parole release, whether he has forfeited
7 any reductions of term during his period of imprisonment,
8 and whether such reductions have been restored at the time
9 of hearing or reconsideration; and

10 (m) The prisoner's conduct and attitude during any
11 previous experiences of probation or parole and the recency
12 of such experience."

13 Section 15. Title 11 of the Code of the Federated States of
14 Micronesia is hereby further amended by the addition of a new section
15 1415 of chapter 14 to read as follows:

16 "Section 1415. Recommendation of the board. The board shall
17 render its written recommendation regarding a prisoner's
18 release on parole within 10 days after the hearing. The
19 recommendation shall be by majority vote of the entire board.
20 In its decision, the board shall either recommend the
21 prisoner's release date and conditions of parole or it shall
22 recommend the deferral of the case for later consideration.
23 If the board recommends a release date, such date shall not
24 be more than 3 months from the date of the prisoner's parole
25 hearing. If the board recommends deferral of the case for

1 later consideration, it may recommend a date before which
2 reconsideration will not be granted without a substantial
3 change in circumstances. In either event, the prisoner shall
4 be promptly notified of the decision of the board. The
5 recommendations of the board shall be promptly transmitted
6 to the President for his action. Any member dissenting from
7 the recommendation may submit a minority report. The
8 petitioner shall be given a copy of the recommendation and
9 may within 14 days present a written comment on the
10 recommendation to the President."

11 Section 16. Title 11 of the Code of the Federated States of
12 Micronesia is hereby further amended by the addition of a new section
13 1416 of chapter 14 to read as follows:

14 "Section 1416. Conditions of parole. When a prisoner is
15 released on parole, it shall be required as a condition of
16 parole that he refrain from engaging in criminal conduct. It
17 may also be required, either at the time of his release on
18 parole, or at any time, and from time to time while he
19 remains under parole, that he conform to any of the following
20 conditions of parole:

21 (1) Meet his specified family responsibilities;

22 (2) Devote himself to an approved employment or
23 occupation; or

24 (3) Remain within the geographic limits fixed in his
25 Certificate of Parole, unless granted written permission to

1 leave such limits."

2 Section 17. Title 11 of the Code of the Federated States of
3 Micronesia is hereby further amended by the addition of a new section
4 1417 of chapter 14 to read as follows:

5 "Section 1417. Certificate of Parole. If the President
6 grants the petitioner a parole, a Certificate of Parole will
7 be given to the parolee which shall incorporate all conditions
8 of the parole. Before released on parole, a parolee shall
9 sign the certificate and agree to the conditions of the
10 parole. A copy of the Certificate of Parole shall be given
11 to:

12 (1) The Office of the Attorney General of the Federated
13 States of Micronesia;

14 (2) The office of the attorney general for any State
15 concerned; and

16 (3) The chief of police for any State concerned."

17 Section 18. Title 11 of the Code of the Federated States of
18 Micronesia is hereby further amended by the addition of a new section
19 1418 of chapter 14 to read as follows:

20 "Section 1418. Coordination of parole with court officers.
21 The President may enter into agreement with the courts of the
22 Federated States of Micronesia to utilize court personnel,
23 particularly probation officers, to effectuate the provisions
24 of this act."

25 Section 19. Title 11 of the Code of the Federated States of

1 Micronesia is hereby further amended by the addition of a new section
2 1419 of chapter 14 to read as follows:

3 "Section 1419. Procedure for revocation. At any time when a
4 member of the board, the Attorney General of the Federated
5 States of Micronesia, or a State attorney general has
6 reasonable cause to believe that any of the conditions of
7 parole specified in the Certificate of Parole have been
8 violated by the parolee, an application may be made to the
9 Trial Division of the Supreme Court of the Federated States
10 of Micronesia for a revocation of parole, and may be
11 accompanied by a request for a warrant for the apprehension
12 and holding of the parolee in custody pending a determination
13 on revocation of his parole. Upon consideration of the
14 application, the Court shall issue either an arrest warrant
15 or summons for the parolee. At the initial appearance of the
16 parolee, the Court shall provide a copy of the application
17 for revocation of parole to the parolee, appoint counsel, and
18 set a date for a parole revocation hearing. The parolee may
19 admit or deny the violation charged. If the parolee admits
20 the violation, or after a hearing the Court finds, to a
21 preponderance of the evidence, that the parolee has violated
22 the conditions of parole, then the Court shall determine the
23 effect of the violation on the parole."

24 Section 20. Title 11 of the Code of the Federated States of
25 Micronesia is hereby further amended by the addition of a new section

1 1420 of chapter 14 to read as follows:

2 "Section 1420. Effect of violation. After the Court finds,
3 pursuant to section 1419, that a violation of the conditions
4 of parole has been committed by the parolee, the Court may:

5 (1) Deem the violation de minimus and allow the parole
6 to continue;

7 (2) In lieu of revocation of parole, add to or change
8 the conditions of parole;

9 (3) Suspend the parole for a temporary period not to
10 exceed 60 days, recommitting the parolee for that period of
11 time; or

12 (4) Revoke the parole."

13 Section 21. Title 11 of the Code of the Federated States of
14 Micronesia is hereby further amended by the addition of a new section
15 1421 of chapter 14 to read as follows:

16 "Section 1421. Effect of revocation.

17 (1) A parolee whose parole is revoked for violation of
18 the conditions of parole shall be recommitted for the
19 remainder of the term of sentence. The remainder of the
20 term of sentence shall be computed by subtracting the period
21 served prior to the granting of parole from the original
22 sentence. Reductions previously earned for good time and any
23 other credits prior to the parole shall also be recredited.

24 (2) A parolee whose parole has been revoked may be
25 considered by the President for reparole after serving a

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1 further period of imprisonment of 6 months.

2 (3) Except in case of a parolee who has absconded from
3 the jurisdiction or from his place of residence, action
4 revoking a parolee's parole and recommitting him for
5 violation of the conditions of parole must be taken before
6 the expiration of his maximum parole term. A parolee who
7 has absconded from the jurisdiction, or from his place of
8 residence, shall be treated as a parole violator and whenever
9 he is apprehended shall be subject to recommitment or to
10 supervision for the balance of his parole term remaining on
11 the date when he absconded."

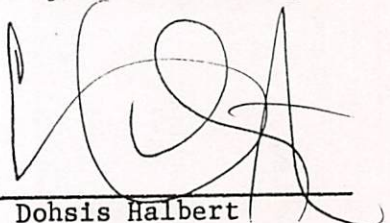
12 Section 22. Title 11 of the Code of the Federated States of
13 Micronesia is hereby further amended by the addition of a new section
14 1422 of chapter 14 to read as follows:

15 "Section 1422. Regulation. The President is hereby
16 authorized to promulgate regulations, in accordance with
17 chapter 1 of title 17 of the Code of the Federated States of
18 Micronesia, implementing the provisions of this act, which
19 regulations shall have the force and effect of law."

20 Section 23. This act shall become law upon approval by the
21 President of the Federated States of Micronesia or upon its becoming
22 law without such approval.

23
24 Date: 5/26/87

Introduced by:


Dohsis Halbert

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