

AN ACT

To further amend title 11 of the Code of the Federated States of Micronesia, as amended by Public Laws Nos. 5-24 and 5-40, by adding a new section 509 to specify that flight to avoid prosecution or give testimony is a National offense, by amending section 105 to provide that no statute of limitations shall extend to any person fleeing from justice; and by further amending title 12 of the Code of the Federated States of Micronesia, as amended by Public Laws Nos. 5-22 and 5-23, by adding a new chapter 16 to authorize the extradition of fugitives from one State who are found in another State, and for other purposes.

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

Section 1. Title 11 of the Code of the Federated States of Micronesia is hereby further amended by adding a new section 509 to read as follows:

"Section 509. Flight to avoid prosecution or giving testimony. Whoever moves or travels in interstate or foreign commerce with intent either:

(1) to avoid prosecution, or custody, or confinement after conviction, under the laws of the State from which the fugitive flees, for a crime or an attempt to commit a crime which is a felony under the laws of the State from which the fugitive flees; or

(2) to avoid giving testimony in any criminal proceedings in such State in which the commission of an offense which is a felony under the laws of such State is charged; or

(3) to avoid service of, or contempt proceedings for alleged disobedience of, lawful process requiring attendance and the giving of testimony or the production of documentary evidence before an agency of a State empowered by the law of such State to conduct investigations of alleged criminal activities; shall be fined not more than \$5,000 or imprisoned not more than five years, or both. Violations of this section may be prosecuted only in the Federated States of Micronesia Supreme Court sitting in the State in which the original crime was alleged to have been committed, or in which the person was held in custody or

confinement, or in which an avoidance of service of process or a contempt referred to in subsection (3) of this section is alleged to have been committed, and only upon formal approval in writing by the Attorney General or an Assistant Attorney General of the Federated States of Micronesia, which function of approving prosecutions may not be delegated."

Section 2. Section 105 of title 11 of the Code of the Federated States of Micronesia is hereby amended to read as follows:

"Section 105. Time limitations for beginning prosecutions.

(1) A prosecution for murder may be commenced at any time.

(2) Except as otherwise provided in this section, prosecution for other offenses are subject to the following time limitations:

(a) A prosecution for an offense which is punishable by imprisonment for more than ten years must be commenced within six years after it is committed.

(b) A prosecution for any other felony must be commenced within three years after it is committed.

(c) A prosecution for a misdemeanor offense must be commenced within two years after it is committed.

(d) A prosecution for a petty misdemeanor must be commenced within six months after it is committed.

(3) If the time limitation set forth in subsection (2) of this section has expired, a prosecution may nevertheless be commenced for:

(a) Any offense, an element of which is either fraud

or a breach of fiduciary obligation, within one year after discovery of the offense by an aggrieved party or by a person who has a legal duty to represent an aggrieved party and who is himself not a party to the offense, but in no case shall this provision extend the period of limitation otherwise applicable by more than three years; or

(b) Any offense based on misconduct in office by a public officer or employee at any time when the defendant is in public office or employment or within two years thereafter, but in no case shall this provision extend the period of limitation otherwise applicable by more than three years.

(4) The time limitation does not run:

(a) During any time when the accused is continuously absent from the complaining jurisdiction or has no reasonably determinable place of abode or work within the jurisdiction; or

(b) During any time when a prosecution against the accused for the same conduct is pending in this jurisdiction.

(5) A prosecution is commenced either when an information or complaint is filed or when an arrest warrant or other process is executed without unreasonable delay."

Section 3. Title 12 of the Code of the Federated States of Micronesia is hereby further amended by adding a new section 1601 to read as follows:

"Section 1601. Interstate extradition -- Obligations of States.

(1) A person charged with a public offense in any State of the Federated States of Micronesia, who flees to any other State of the Federated States of Micronesia, shall, upon demand from the executive

of the charging State, be apprehended, removed and delivered from the asylum State to the requesting State, in accordance with the provisions of this chapter.

(2) The asylum State shall, within a reasonable time after apprehension of a person in accordance with this section, make reasonable efforts to provide notice of the apprehension to one of the following people, in the following order of priority:

(a) The apprehended person's spouse, if any;

(b) The apprehended person's most competent child, if any;

(c) The head of the family with which the apprehended person has been staying in the asylum State;

(3) Before a person who has been apprehended in accordance with subsection (1) of this section may be removed to the requesting State, the asylum State must make reasonable efforts to allow an opportunity for the person who is apprehended to communicate for a reasonable length of time with the person who has been notified in accordance with subsection (2) of this section.

(4) A person who has been apprehended in accordance with subsection (1) of this section may choose to waive his rights to notice and/or visitation under subsections (2) and (3) of this section. Any such waiver must be in writing, and must be signed by the apprehended person. If the apprehended person signs a waiver of his right to notice under subsection (2) of this section, no such notice shall be made. If the

apprehended person signs a waiver of his right to visitation under subsection (3) of this section, no such visitation shall occur."

Section 4. Title 12 of the Code of the Federated States of Micronesia is hereby further amended by adding a new section 1602 to read as follows:

"Section 1602. Requirement for warrant. No person shall be extradited from one State to another within the Federated States of Micronesia unless a warrant of arrest is first issued by a court of competent jurisdiction in the requesting State."

Section 5. Title 12 of the Code of the Federated States of Micronesia is hereby further amended by adding a new section 1603 to read as follows:

"Section 1603. Contents of warrant. The warrant of arrest shall set forth with specificity the person to be arrested, a physical description of the person, the offense for which extradition is sought, and the accused person's rights under subsections (2), (3), and (4) of section 1601 of this title. The offense for which extradition is sought need not be an offense in the asylum State, so long as it is an offense in the requesting State."

Section 6. Title 12 of the Code of the Federated States of Micronesia is hereby further amended by adding a new section 1604 to read as follows:

"Section 1604. Transmittal of warrant. After a warrant of arrest has been issued, the executive of the requesting State shall transmit a copy of the warrant of arrest, along with his request for execution thereof, to the executive of the asylum State."

Section 7. Title 12 of the Code of the Federated States of Micronesia is hereby further amended by adding a new section 1605 to read as follows:

"Section 1605. Ratification of warrant. Upon receipt, the executive of the asylum State shall ratify the warrant and request, and deliver the same to local law enforcement agencies for execution."

Section 8. Title 12 of the Code of the Federated States of Micronesia is hereby further amended by adding a new section 1606 to read as follows:

"Section 1606. Required findings by court. After arrest of the fugitive, he shall be brought before a court of competent jurisdiction in the asylum State. The court shall determine the validity of the warrant and request and the identity of the fugitive, and may detain the fugitive until his removal or may release him on such conditions as will insure his ready presence for removal, and shall issue findings of fact as to the validity of the warrant and request and the identity of the fugitive."

Section 9. Title 12 of the Code of the Federated States of Micronesia is hereby further amended by adding a new section 1607 to read as follows:

"Section 1607. Time limitations. A fugitive detained shall be removed to the requesting State within 30 days of the issuance of findings by a court of the asylum State, and if not detained, the fugitive shall be removed to the requesting State within 60 days of the issuance of findings by a court of the asylum State. If not removed within these time limits, the case shall be dismissed without prejudice."

Section 10. Title 12 of the Code of the Federated States of Micronesia is hereby further amended by adding a new section 1608 to read as follows:

"Section 1608. Expenses. All expenses of the extradition, including return to the asylum State upon completion of proceedings in the requesting State, shall be borne by the requesting State."

Section 11. This act shall become law upon approval by the President of the Federated States of Micronesia or upon its becoming law without such approval.

September 30, 1997

/s/ Jacob Nena
Jacob Nena
President
Federated States of Micronesia