

AN ACT

To further amend title 11 of the Code of the Federated States of Micronesia, as amended, by repealing chapters 1 through 10 and 12 through 14 in their entirety and enacting new chapters 1 through 10, to eliminate all references to major crimes and to define national crimes; to enact a new chapter 12 entitled sentencing; to enact a money laundering prohibition and related matters with an effective date delayed to July 1, 2001; 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, is hereby further amended by repealing
3 chapters 1 through 10 and 12 through 14 in their entirety.

4 Section 2. Title 11 of the Code of the Federated States of
5 Micronesia, as amended, is hereby further amended by enacting a
6 new chapter 1 entitled "General Provisions".

7 Section 3. Title 11 of the Code of the Federated States of
8 Micronesia, as amended, is hereby further amended by adding a new
9 section 101 of chapter 1 to read as follows:

10 "Section 101. Title. This act shall be known and cited
11 as the 'Revised Criminal Code Act'."

12 Section 4. Title 11 of the Code of the Federated States of
13 Micronesia, as amended, is hereby further amended by adding a new
14 section 102 of chapter 1 to read as follows:

15 "Section 102. Applicability to crimes committed before
16 and after effective date.

17 (1) Except as provided in subsection (2) of this
18 section, this act does not apply to crimes committed
19 before its effective date. For purposes of this
20 section, a crime is committed before the effective date
21 if any of the elements of the crime occurred before that
22 date.

23 (2) Prosecutions for crimes committed before the

1 effective date are governed by the prior law, which is
2 continued in effect for that purpose, as if the act were
3 not in force."

4 Section 5. Title 11 of the Code of the Federated States of
5 Micronesia, as amended, is hereby further amended by adding a new
6 section 103 of chapter 1 to read as follows:

7 "Section 103. Jurisdiction of the Federated States of
8 Micronesia.

9 (1) The National Government of the Federated States of
10 Micronesia has exclusive jurisdiction over all national
11 crimes, as defined in section 104(7) of this title,
12 pursuant to article IX, section 2(p) of the Constitution
13 of the Federated States of Micronesia.

14 (2) A person may be convicted and sentenced under the
15 laws of the Federated States of Micronesia if:

16 (a) he or she commits, or attempts to commit a
17 crime, in whole or in part within the Federated States
18 of Micronesia; or

19 (b) being outside the Federated States of
20 Micronesia, he or she conspires with, causes, assists,
21 aids or abets another to commit or attempt to commit a
22 crime within the Federated States of Micronesia; or

23 (c) being outside the Federated States of
24 Micronesia, he or she intentionally causes, or attempts
25 to cause a result within the Federated States of
26 Micronesia prohibited by the criminal laws of this

1 country."

2 Section 6. Title 11 of the Code of the Federated States of
3 Micronesia, as amended, is hereby further amended by adding a new
4 section 104 of chapter 1 to read as follows:

5 "Section 104. Definitions. The definitions in this
6 section shall apply throughout this title, unless
7 otherwise specified or a different meaning is plainly
8 required.

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

- 13 (a) imprisonment; or
14 (b) fine.

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

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

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

26 (5) 'Knowledge' means being aware of the nature of the

1 conduct or omission or of the existing circumstances, or
2 believing that a fact exists which brings the conduct or
3 omission within the provisions of this code. It does
4 not require any knowledge of the unlawfulness of such
5 conduct or omission.

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

8 (7) 'National crime' means:

9 (a) any crime which is

10 (i) inherently national in character and
11 defined anywhere in this title; or

12 (ii) otherwise a crime against the Federated
13 States of Micronesia.

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

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

19 (ii) the crime is committed in the airspace
20 above the territory comprising the Federated States of
21 Micronesia as defined in article I, section 1 of the FSM
22 Constitution;

23 (iii) the crime is committed on any airborne
24 vehicle of the National Government, regardless of that
25 vehicle's location;

26 (iv) the crime is committed on any watergoing

1 vessel flagged and registered by the Federated States of
2 Micronesia regardless of that watergoing vessel's
3 location;

4 (v) the crime is committed on any watergoing
5 vessel of the National Government regardless of that
6 vessel's location;

7 (vi) the crime is committed against a
8 national public servant in the course of, in connection
9 with, or as a result of that person's employment or
10 service;

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

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

20 (ix) the crime involves property belonging to
21 the National Government; or

22 (x) the crime is committed against any
23 person participating in or attempting to participate in
24 a national election.

25 (8) 'Official proceedings' means any procedure
26 conducted by or under the supervision of a judge,

1 magistrate, judicial officer or other public official in
 2 relation to any alleged offense or proven offense, and
 3 includes an inquiry, investigation, or preliminary or
 4 final determination of facts.

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

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

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

24 (12) 'Reckless' means to engage in conduct with a
 25 willful disregard for the safety of others or to engage
 26 in conduct in a manner that constitutes a gross

1 deviation from the standard of care that a reasonable
2 person would exercise in the situation.

3 (13) 'Serious bodily injury' means bodily injury which
4 creates a high probability of death or which causes
5 serious permanent disfigurement or which causes a
6 permanent or protracted loss or impairment of the
7 function of any bodily member or organ, or other bodily
8 injury of like severity.

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

13 (15) 'Property' shall mean both real and personal
14 property."

15 Section 7. Title 11 of the Code of the Federated States of
16 Micronesia, as amended, is hereby further amended by adding a new
17 section 105 of chapter 1 to read as follows:

18 "Section 105. Statute of limitations.

19 (1) A prosecution for murder or treason may be
20 commenced at any time.

21 (2) A prosecution for a crime which is punishable by
22 imprisonment for ten years or more must be commenced
23 within six years after it is committed or within two
24 years after it is discovered or with reasonable
25 diligence could have been discovered, whichever is
26 longer.

1 (3) A prosecution for any other felony must be
2 commenced within three years after it is committed, or
3 within one year after it is discovered or with
4 reasonable diligence could have been discovered,
5 whichever is longer.

6 (4) A prosecution for a misdemeanor must be commenced
7 within two years after it is committed.

8 (5) The time limitation set by the statute does
9 not run:

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

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

17 (6) A prosecution is commenced either when an
18 information or complaint is filed or when an arrest
19 warrant, summons or other process is issued, provided
20 that reasonable attempts are made at service."

21 Section 8. Title 11 of the Code of the Federated States of
22 Micronesia, as amended, is hereby further amended by adding a new
23 section 106 of chapter 1 to read as follows:

24 "Section 106. Venue.

25 (1) All trials of national crimes shall be held in the
26 State in which the crime was committed.

1 (2) If elements of the crime(s) were committed in
2 different States, the trial may be held in any State in
3 which a material element was committed.

4 (3) If elements of a national crime were committed in
5 the exclusive economic zone, or elsewhere out of the
6 boundaries of any State, the trial shall be held in the
7 State in which the accused is arrested or is first
8 brought or in which the majority of the witnesses are
9 located.

10 (4) Either a defendant or the Government may petition
11 the court for a change of venue for good cause. The
12 court shall determine the place of trial with due regard
13 to the convenience of the defendant and the witnesses
14 and the prompt administration of justice."

15 Section 9. Title 11 of the Code of the Federated States of
16 Micronesia, as amended, is hereby further amended by adding a new
17 section 107 of chapter 1 to read as follows:

18 "Section 107. Defenses.

19 (1) A defense is a fact or set of facts which removes
20 or mitigates penal liability.

21 (2) No defense may be considered by the trier of fact
22 unless evidence of the specified fact or facts has been
23 presented.

24 (a) a defendant is entitled to an acquittal if,
25 in light of all the evidence presented, a reasonable
26 doubt as to the defendant's guilt is found to exist;

1 however,

2 (b) if a defense is designated an affirmative
3 defense by this act or another statute, the defendant is
4 entitled to an acquittal if the defense evidence
5 presented, when considered in the light of any contrary
6 evidence, proves by a preponderance of the evidence the
7 specified fact or facts, which fact(s) remove or
8 mitigate penal liability.

9 (3) It is a complete defense to a criminal charge that
10 at the time of engaging in the wrongful conduct the
11 defendant was legally incapable of committing a crime as
12 defined in chapter 3, section 301A of this title."

13 Section 10. Title 11 of the Code of the Federated States of
14 Micronesia, as amended, is hereby further amended by adding a new
15 section 108 of chapter 1 to read as follows:

16 "Section 108. Customary law.

17 (1) Generally accepted customs prevailing within the
18 Federated States of Micronesia relating to crimes and
19 criminal liability shall be recognized and considered by
20 the national courts. Where conflicting customs are both
21 relevant, the court shall determine the weight to be
22 accorded to each.

23 (2) Unless otherwise made applicable or given legal
24 effect by statute, the applicability and effect of
25 customary law in a criminal case arising under this act
26 shall be determined by the court of jurisdiction in such

1 criminal case.

2 (3) The party asserting applicability of customary law
3 has the burden of proving by a preponderance of the
4 evidence the existence, relevance, applicability, and
5 customary effect of such customary law."

6 Section 11. Title 11 of the Code of the Federated States of
7 Micronesia, as amended, is hereby further amended by adding a new
8 section 109 of chapter 1 to read as follows:

9 "Section 109. Severability. If any provision of this
10 title or amendments or additions thereto, or the
11 application thereof to any person, thing or circumstance
12 is held invalid, the invalidity does not affect the
13 provisions, application, amendments or additions that
14 can be given effect without the invalid provisions or
15 application, and to this end the provisions of this
16 title and the amendments or additions thereto are
17 severable."

18 Section 12. Title 11 of the Code of the Federated States of
19 Micronesia, as amended, is hereby further amended by enacting a
20 new chapter 2 entitled "Inchoate Crimes".

21 Section 13. Title 11 of the Code of the Federated States of
22 Micronesia, as amended, is hereby further amended by adding a new
23 section 201 of chapter 2 to read as follows:

24 "Section 201. Attempt.

25 (1) A person commits the crime of an attempt to commit
26 a crime if, with intent to commit a national crime, he

1 or she does an act which constitutes a substantial step
2 in a course of conduct planned to culminate in the
3 commission of that crime.

4 (2) It is an affirmative defense to a charge of
5 attempt that the crime was not committed because the
6 defendant desisted voluntarily and in good faith and
7 abandoned his or her intention to commit the crime.

8 (3) Conduct shall not be considered a substantial step
9 under this section unless it is strongly corroborative
10 of the defendant's criminal intent."

11 Section 14. Title 11 of the Code of the Federated States of
12 Micronesia, as amended, is hereby further amended by adding a new
13 section 202 of chapter 2 to read as follows:

14 "Section 202. Solicitation.

15 (1) A person commits the crime of solicitation if,
16 with intent to promote or facilitate the commission of a
17 national crime, he or she commands, encourages, or
18 requests another person to engage in conduct or cause
19 the result specified by the definition of the crime,
20 which would be sufficient to establish complicity in the
21 specified conduct or result.

22 (2) Communication with the person being solicited may
23 be direct or indirect. It is immaterial under
24 subsection (1) of this section that the defendant fails
25 to actually communicate with the person being solicited
26 or if the defendant fails to convince the person being

1 solicited to participate.

2 (3) It is an affirmative defense to the prosecution
3 for solicitation that the defendant, under circumstances
4 showing a complete and voluntary renunciation of his or
5 her criminal intent, made a reasonable effort to prevent
6 the conduct or result solicited."

7 Section 15. Title 11 of the Code of the Federated States of
8 Micronesia, as amended, is hereby further amended by adding a new
9 section 203 of chapter 2 to read as follows:

10 "Section 203. Conspiracy.

11 (1) A person commits the crime of conspiracy if he or
12 she agrees with one or more persons to:

13 (a) commit any crime; and

14 (b) any party to the conspiracy commits an overt
15 act in furtherance of the conspiracy.

16 (2) If a person conspires to commit a number of
17 crimes, he or she is guilty of only one conspiracy if
18 the multiple crimes are the object of the same agreement
19 or continuous conspiratorial relationship.

20 (3) The agreement to conspire may be implicit or
21 explicit and need not be oral or in writing but may be
22 shown by the circumstances surrounding the conduct of
23 the conspirators.

24 (4) The crime underlying the conspiracy need not have
25 been accomplished for the crime of conspiracy to occur.

26 (5) Nothing in this section shall be construed as a

1 bar to prosecution of the underlying crime.

2 (6) A defendant is responsible for all actions of a
3 co-conspirator that are taken in furtherance of the
4 conspiracy, whether or not those actions were part of
5 any plan and whether or not the defendant was privy to
6 them.

7 (7) It is an affirmative defense to a prosecution for
8 conspiracy that the defendant, under circumstances
9 showing a complete and voluntary renunciation of
10 criminal intent, made a reasonable effort to prevent the
11 conduct or result which was the object of the
12 conspiracy."

13 Section 16. Title 11 of the Code of the Federated States of
14 Micronesia, as amended, is hereby further amended by adding a new
15 section 204 of chapter 2 to read as follows:

16 "Section 204. Penalties for attempt, solicitation, and
17 conspiracy. A person convicted of attempt,
18 solicitation, or conspiracy shall be imprisoned:

19 (1) for not more than ten years if the maximum
20 sentence provided for any crime which was the object of
21 the attempt, solicitation, or conspiracy is life
22 imprisonment; or

23 (2) for not more than one-half the maximum sentence
24 which is provided for the most serious crime which was
25 the object of the attempt, solicitation, or conspiracy,
26 if the maximum is less than life imprisonment."

1 Section 17. Title 11 of the Code of the Federated States of
2 Micronesia, as amended, is hereby further amended by enacting a
3 new chapter 3 entitled "General Principles of Responsibility".

4 Section 18. Title 11 of the Code of the Federated States of
5 Micronesia, as amended, is hereby further amended by adding a new
6 section 301 of chapter 3 to read as follows:

7 "Section 301. Liability for crimes.

8 (1) All persons shall be treated as a principal to a
9 crime if that person:

10 (a) directly commits any act constituting a
11 crime;

12 (b) while acting with the state of mind that is
13 sufficient for the commission of the crime, causes an
14 innocent person or person legally incapable, as defined
15 by section 301a of this chapter, to engage in such
16 conduct;

17 (c) having a legal duty to prevent the commission
18 of a crime, fails to make proper effort to do so; or

19 (d) whether or not being present during the
20 commission of the crime, intentionally aids, abets,
21 advises, solicits, counsels, encourages, commands,
22 threatens, menaces or coerces another to commit a crime,
23 or conspires with or otherwise procures another to
24 commit a crime.

25 (2) A person liable under subsection (1) of this
26 section is also liable for any other crime committed in

1 the pursuance of the intended crime if that crime is
2 reasonably foreseeable by him as a probable consequence
3 of committing, or attempting to commit, the crime
4 intended.

5 (3) A person liable under this section may be charged
6 with and convicted of the crime although other
7 principals to the same crime have not been prosecuted or
8 convicted, or have been convicted of a different crime
9 or degree of crime."

10 Section 19. Title 11 of the Code of the Federated States of
11 Micronesia, as amended, is hereby further amended by adding a new
12 section 301A of chapter 3 to read as follows:

13 "Section 301A. Persons capable of committing crimes.

14 All persons are capable of committing crimes except the
15 following:

16 (1) Children under the age of 14, unless there is
17 clear proof that at the time of engaging in the wrongful
18 conduct, they knew it was wrong.

19 (2) Persons under the legal conservatorship of
20 another, unless there is clear proof that at the time of
21 engaging in the wrongful conduct, they knew it was
22 wrong.

23 (3) Persons whose conduct was a result of an ignorance
24 or mistake of fact, which disproves criminal intent.

25 (4) Persons who engaged in the wrongful conduct
26 without being conscious.

1 (5) Persons whose actions are a result of duress such
2 that they had reasonable cause to and did believe that
3 they would suffer immediate, life threatening injury if
4 they refused to act."

5 Section 20. Title 11 of the Code of the Federated States of
6 Micronesia, as amended, is hereby further amended by adding a new
7 section 302 of chapter 3 to read as follows:

8 "Section 302. Physical or mental disease, disorder, or
9 defect excluding criminal responsibility.

10 (1) No person shall be convicted, sentenced, or
11 otherwise punished for any crime committed while
12 suffering from a physical or mental disease, disorder or
13 defect such that the disease, disorder or defect
14 prevented that person from knowing the nature of the
15 criminal act or that it was wrong.

16 (2) The terms 'physical or mental disease, disorder,
17 or defect' do not include voluntary intoxication or an
18 abnormality manifested only by repeated criminal or
19 otherwise antisocial conduct.

20 (3) The party asserting such a condition has the
21 burden of proving the existence of the physical or
22 mental disease, disorder, or defect by clear and
23 convincing evidence.

24 (4) When the defendant is acquitted on the grounds of
25 physical or mental disease, disorder, or defect
26 excluding responsibility, the verdict and the judgment

1 shall so state. If the court determines that a person
2 accused of a felony was suffering such a condition at
3 the time of the criminal conduct, judgment in favor of
4 the defendant shall be entered and:

5 (a) the court shall retain jurisdiction over the
6 accused for a period not to exceed the maximum time of
7 imprisonment allowed for the crime;

8 (b) the court shall, subject to the law governing
9 the civil commitment or conditional release of persons
10 suffering from physical or mental disease, disorder, or
11 defect, order the defendant to be committed or released
12 on such conditions as the court determines necessary; or

13 (c) the court may, at regular intervals, review
14 the condition and behavior of the defendant and continue
15 or revise any orders as the court determines necessary.

16 (5) Judgment in favor of the defendant shall reflect
17 the physical or mental disease, defect or disorder
18 suffered by the defendant at the time the crime was
19 committed, the condition of the defendant at the time
20 judgment is entered and the course of treatment, if any
21 is ordered."

22 Section 21. Title 11 of the Code of the Federated States of
23 Micronesia, as amended, is hereby further amended by adding a new
24 section 303 of chapter 3 to read as follows:

25 "Section 303. Evidence of physical or mental disease,
26 disorder, or defect admissible when relevant to element

1 of the crime. Evidence that the defendant suffered from
2 a physical or mental disease, disorder, or defect is
3 admissible whenever it is relevant to prove that the
4 defendant did or did not have a state of mind which is
5 an element of the crime."

6 Section 22. Title 11 of the Code of the Federated States of
7 Micronesia, as amended, is hereby further amended by adding a new
8 section 304 of chapter 3 to read as follows:

9 "Section 304. Physical or mental disease, disorder, or
10 defect excluding fitness to proceed.

11 (1) No person who, as a result of physical or mental
12 disease, disorder, or defect, lacks capacity to
13 understand the proceedings against him or her, or to
14 assist in his or her own defense, shall be tried,
15 convicted, or sentenced for the commission of a crime so
16 long as such incapacity endures.

17 (2) If the court determines that the defendant lacks
18 fitness to proceed, the proceeding against him or her
19 shall be suspended, and the court shall commit him or
20 her, for a reasonable period of time, to an appropriate
21 institution for the purpose of restoring fitness to
22 proceed. If the court is satisfied that the defendant
23 may be released on conditions without danger to himself
24 or herself or to the person or property of another, the
25 court shall order his or her release, which shall
26 continue at the discretion of the court, on such

1 conditions as the court determines necessary.

2 (3) When the court, on its own motion or upon the
3 application of the institution, or the prosecuting
4 attorney, or the defendant, determines after a hearing,
5 if a hearing is requested, that the defendant has
6 regained fitness to proceed, the proceeding shall be
7 resumed. If the court determines that so much time has
8 elapsed due to the unfitness of the defendant to proceed
9 that it would be unjust to resume the criminal
10 proceeding, the court may dismiss the charge and may
11 order the defendant to be discharged or, subject to the
12 law governing the civil commitment or conditional
13 release of persons suffering from physical or mental
14 disease, disorder, or defect, order the defendant to be
15 committed or released on such conditions as the court
16 determines necessary."

17 Section 23. Title 11 of the Code of the Federated States of
18 Micronesia, as amended, is hereby further amended by adding a new
19 section 305 of chapter 3 to read as follows:

20 "Section 305. Statements for purposes of examination
21 and treatment. A statement of a person made pursuant to
22 treatment under this chapter, or made pursuant to an
23 examination for the purpose of assessing criminal
24 responsibility or fitness to proceed, shall not be
25 admissible in evidence against him or her in any
26 criminal proceeding on any issue other than that of his

1 or her physical or mental condition excluding
2 responsibility or fitness to proceed, but it shall be
3 admissible upon those issues of whether or not it would
4 otherwise be deemed a privileged communication, unless
5 such statement constitutes an admission of guilt to the
6 crime charged."

7 Section 24. Title 11 of the Code of the Federated States of
8 Micronesia, as amended, is hereby further amended by adding a new
9 section 306 of chapter 3 to read as follows:

10 "Section 306. Voluntary intoxication.

11 (1) An act committed while in a state of voluntary
12 intoxication is not less criminal by reason thereof.
13 Evidence of voluntary intoxication shall not be admitted
14 regarding the capacity to form any mental states for the
15 crimes charged. Evidence of voluntary intoxication is
16 admissible solely on the issue of whether or not the
17 defendant actually formed a required specific intent,
18 when a specific intent crime is charged.

19 (2) Intoxication does not, in itself, constitute a
20 physical or mental disease, disorder, or defect within
21 the meaning of this chapter.

22 (3) When recklessness establishes an element of the
23 crime, if the defendant, due to voluntary intoxication,
24 is unaware of a risk that he or she would have been
25 aware of had he or she been sober, such unawareness is
26 immaterial.

1 (4) 'Intoxication' means a disturbance of mental or
2 physical capabilities resulting from the introduction of
3 substances into the body regardless of whether the
4 substance introduced is legal, illegal, prescribed by a
5 medical practitioner, or otherwise taken for health
6 reasons."

7 Section 25. Title 11 of the Code of the Federated States of
8 Micronesia, as amended, is hereby further amended by enacting a
9 new chapter 4 entitled "Crimes Against National Security".

10 Section 26. Title 11 of the Code of the Federated States of
11 Micronesia, as amended, is hereby further amended by adding a new
12 section 401 of chapter 4 to read as follows:

13 "Section 401. Treason.

14 (1) A person who is a citizen or national of, or who
15 is domiciled in, the Federated States of Micronesia
16 commits the crime of treason if that person:

17 (a) levies war against the Federated States of
18 Micronesia; or

19 (b) adheres to the enemies of the Federated
20 States of Micronesia, giving them aid and comfort.

21 (2) 'Levying war' includes an act of war or
22 insurrection of several persons with intent to prevent,
23 by force or intimidation, the execution of a statute of
24 the Government, or to force its repeal. It does not
25 include either a conspiracy to commit an act of war or a
26 single instance of resistance to the execution of the

1 law for a private purpose.

2 (3) A person convicted under this section shall be
3 imprisoned for not less than two years and may be
4 imprisoned for life."

5 Section 27. Title 11 of the Code of the Federated States of
6 Micronesia, as amended, is hereby further amended by adding a new
7 section 402 of chapter 4 to read as follows:

8 "Section 402. Armed insurrection.

9 (1) A person commits the crime of armed insurrection
10 if he or she engages in an armed insurrection with
11 intent to overthrow, supplant, or change the form of
12 Government of the Federated States of Micronesia, or,
13 knowing that such armed insurrection is in progress or
14 impending, he or she facilitates it or solicits,
15 incites, or conspires with another to engage in or
16 facilitate it.

17 (2) A person convicted under this section shall be
18 imprisoned for not more than twenty years."

19 Section 28. Title 11 of the Code of the Federated States of
20 Micronesia, as amended, is hereby further amended by adding a new
21 section 403 of chapter 4 to read as follows:

22 "Section 403. Advocating armed insurrection.

23 (1) A person commits the crime of advocating armed
24 insurrection if, with intent to induce or otherwise
25 cause another to engage in armed insurrection in
26 violation of section 402 of this title, he or she:

1 (a) advocates the desirability or necessity of
2 armed insurrection under circumstances in which there is
3 substantial likelihood that his or her advocacy will
4 immediately produce a violation of section 402 of this
5 title; or

6 (b) organizes an association which engages in the
7 advocacy prohibited in subsection (1)(a) of this
8 section, or, as an active member of such association,
9 facilitates such advocacy.

10 (2) A person convicted under this section may be
11 imprisoned for life if death or serious bodily injury
12 results from the violation, otherwise that person shall
13 be imprisoned for not more than ten years."

14 Section 29. Title 11 of the Code of the Federated States of
15 Micronesia, as amended, is hereby further amended by adding a new
16 section 404 of chapter 4 to read as follows:

17 "Section 404. Revealing classified information.

18 (1) A person commits the crime of revealing classified
19 information if he or she:

20 (a) intentionally communicates classified
21 information to an unauthorized person;

22 (b) knowingly obtains classified information
23 without authorization; or

24 (c) solicits another to communicate classified
25 information to an unauthorized person.

26 (2) 'Classified information' means information the

1 dissemination of which has been restricted by the
2 President for reasons of national security.

3 (3) A person convicted under this section shall be
4 imprisoned for not more than twenty years."

5 Section 30. Title 11 of the Code of the Federated States of
6 Micronesia, as amended, is hereby further amended by enacting a
7 new chapter 5 entitled "Crimes Against Public Administration".

8 Section 31. Title 11 of the Code of the Federated States of
9 Micronesia, as amended, is hereby further amended by enacting a
10 new subchapter I of chapter 5 entitled "Obstructing Government
11 Operations".

12 Section 32. Title 11 of the Code of the Federated States of
13 Micronesia, as amended, is hereby further amended by adding a new
14 section 501 of chapter 5 to read as follows:

15 "Section 501. Obstructing a public official in
16 discharge of duties.

17 (1) A person commits a crime if he or she willfully
18 interferes with, delays, or obstructs a public official
19 in the discharge or attempted discharge of any duty of
20 his or her office.

21 (2) A person convicted under this section shall be
22 imprisoned for not more than one year."

23 Section 33. Title 11 of the Code of the Federated States of
24 Micronesia, as amended, is hereby further amended by adding a new
25 section 502 of chapter 5 to read as follows:

26 "Section 502. Resisting arrest or other law

1 enforcements.

2 (1) A person commits a crime if, for the purpose of
3 preventing a public official from effecting a lawful
4 arrest or discharging any other duty, the person creates
5 a substantial risk of bodily injury to the public
6 official or anyone else, or employs means justifying or
7 requiring substantial force to overcome the resistance.

8 (2) A person convicted under this section shall be
9 imprisoned for not more than five years."

10 Section 34. Title 11 of the Code of the Federated States of
11 Micronesia, as amended, is hereby further amended by adding a new
12 section 503 of chapter 5 to read as follows:

13 "Section 503. Hindering apprehension or prosecution.

14 (1) A person commits a crime if, with the purpose to
15 hinder the apprehension, prosecution, conviction, or
16 punishment of another for a national crime he or she:

17 (a) harbors or conceals the other;

18 (b) provides or aids in providing a weapon,
19 transportation, disguise, or other means of avoiding
20 apprehension or effecting escape;

21 (c) conceals or destroys evidence of the crime,
22 or tampers with a witness, informant, document, or other
23 source of information, regardless of its admissibility
24 as evidence;

25 (d) warns the other of impending discovery or
26 apprehension, except that this paragraph does not apply

1 to a warning given in connection with an effort to bring
2 another into compliance with the law; or

3 (e) volunteers false information to any law
4 enforcement officer.

5 (2) A person convicted under this section shall be
6 imprisoned:

7 (a) for not more than five years if the conduct
8 which the defendant knows has been charged or is liable
9 to be charged against the person aided is punishable by
10 imprisonment for ten or more years;

11 (b) otherwise, for not more than one year."

12 Section 35. Title 11 of the Code of the Federated States of
13 Micronesia, as amended, is hereby further amended by adding a new
14 section 504 of chapter 5 to read as follows:

15 "Section 504. Compounding.

16 (1) A person commits a crime if he or she accepts or
17 agrees to accept any pecuniary benefit in consideration
18 of refraining from reporting to law enforcement
19 authorities the commission or suspected commission of
20 any national crime or information relating to such a
21 crime, or from cooperating with prosecution of such a
22 crime. It is a defense to prosecution under this
23 section that the pecuniary benefit did not exceed an
24 amount which the defendant believed to be due as
25 restitution or indemnification for harm caused by the
26 crime.

1 (2) A person convicted under this section shall be
2 imprisoned for not more than one year."

3 Section 36. Title 11 of the Code of the Federated States of
4 Micronesia, as amended, is hereby further amended by adding a new
5 section 505 of chapter 5 to read as follows:

6 "Section 505. Escape.

7 (1) A person commits the crime of escape if he or she
8 unlawfully removes himself or herself from official
9 detention or fails to return to official detention
10 following temporary leave granted for a specific purpose
11 or limited period. 'Official detention' means arrest
12 and detention in any facility for custody of persons
13 under charge or conviction of a national crime, under
14 detention for extradition or deportation, or any other
15 detention for law enforcement purposes. The term
16 'official detention' shall apply only to detention by a
17 public servant of the Federated States of Micronesia, or
18 by any other person legally authorized or empowered to
19 arrest or detain on behalf of the Federated States of
20 Micronesia. 'Official detention' does not include
21 supervision of probation or parole, or constraint
22 incidental to release on bail.

23 (2) A public servant involved in detention commits a
24 crime if he or she knowingly permits an escape or
25 attempt to escape.

26 (3) Any person who knowingly causes or facilitates an

1 escape or attempt to escape commits a crime.

2 'Facilitating' includes providing any assistance
3 necessary for an escape or attempt to escape.

4 (4) Irregularity in bringing about or maintaining
5 detention, or lack of jurisdiction of the committing or
6 detaining authority, shall not be a defense to
7 prosecution under this section if the escape is from a
8 prison or other custodial facility or from detention
9 pursuant to commitment by official proceedings. In the
10 case of other detentions, irregularity or lack of
11 jurisdiction shall be a defense only if:

12 (a) the escape involved no substantial risk of
13 harm to the person or property of anyone other than the
14 defendant; or

15 (b) the detaining authority did not act in good
16 faith under the color of law.

17 (5) A person convicted under this section shall be
18 imprisoned:

19 (a) for not less than six months and not more
20 than ten years if the escaping inmate employs force, a
21 deadly weapon, or other dangerous instrumentality to
22 make the escape; or

23 (b) otherwise, for not more than three years.

24 (6) Any sentence imposed under this section shall be
25 served consecutive to all other criminal penalties
26 imposed on the defendant."

1 Section 37. Title 11 of the Code of the Federated States of
2 Micronesia, as amended, is hereby further amended by adding a new
3 section 506 of chapter 5 to read as follows:

4 "Section 506. Implements for escape and other
5 contraband.

6 (1) A person commits a crime if:

7 (a) he or she unlawfully introduces, within a
8 detention facility, or unlawfully provides an inmate of
9 a detention facility with any weapon, tool, or other
10 thing which may be useful for escape; or

11 (b) being an inmate of a detention facility
12 unlawfully procures, makes, or otherwise provides
13 himself or herself with, or has in his or her
14 possession, any weapon, tool, or other thing which may
15 be useful for escape.

16 (2) A person commits a crime if:

17 (a) he or she provides an inmate of a detention
18 facility with anything which the defendant knows the
19 inmate may not lawfully possess; or

20 (b) being an inmate of a detention facility, he
21 or she unlawfully procures, makes, or otherwise provides
22 himself or herself with, or has in his or her
23 possession, anything which he or she knows is unlawful
24 to possess.

25 (3) 'Detention facility' refers only to a detention
26 facility owned or operated by the Federated States of

1 Micronesia, or to any other detention facility if the
2 inmate is detained therein pursuant to an arrest,
3 charge, or conviction for a national crime, or to an
4 accusation or adjudication of delinquency based upon a
5 national crime, or detained for extradition or
6 deportation purposes.

7 (4) 'Unlawfully' means surreptitiously or contrary to
8 law, regulation, or order of the detaining authority.

9 (5) A person convicted under this section shall be
10 imprisoned for not more than ten years if the unlawful
11 item provided or possessed was a deadly weapon.

12 Otherwise, a person convicted under this section shall
13 be imprisoned for not more than three years."

14 Section 38. Title 11 of the Code of the Federated States of
15 Micronesia, as amended, is hereby further amended by adding a new
16 section 507 of chapter 5 to read as follows:

17 "Section 507. Bail jumping; default in required
18 appearance.

19 (1) A person set at liberty by court order, with or
20 without bail, upon condition that he or she will
21 subsequently appear at a specified time and place,
22 commits a crime if, without lawful excuse, he or she
23 fails to appear at that time and place.

24 (2) This section shall apply only to persons whose
25 detention was based upon a charge or conviction for a
26 national crime, or upon an accusation or adjudication of

1 delinquency based upon a national crime, or whose
2 detention was for extradition or deportation purposes,
3 except that this section does not apply to obligations
4 to appear incident to release under suspended sentence
5 or on probation or parole.

6 (3) A person convicted under this section shall be
7 imprisoned:

8 (a) for not more than three years if the required
9 appearance was to answer to a charge of felony, or for
10 disposition of any such charge, and the defendant took
11 flight or went into hiding to avoid apprehension, trial,
12 or punishment;

13 (b) otherwise, by imprisonment for not more than
14 one year."

15 Section 39. Title 11 of the Code of the Federated States of
16 Micronesia, as amended, is hereby further amended by adding a new
17 section 508 of chapter 5 to read as follows:

18 "Section 508. Disrupting Government meetings.

19 (1) A person commits a crime if, with intent to
20 prevent or substantially disrupt, or recklessly creating
21 a risk thereof, or after a reasonable warning or request
22 to desist has been made, he or she continues in conduct
23 which prevents or substantially disrupts any official
24 proceeding or any meeting, ceremony, procession, or
25 other official gathering of the Federated States of
26 Micronesia, and he or she:

1 (a) does any act which physically obstructs or
2 interferes with the gathering;

3 (b) engages in fighting or in violent behavior;

4 (c) addresses abusive language to any person
5 present, which is likely to provoke a violent response;
6 or

7 (d) creates a hazardous or physically offensive
8 condition by any act which is not performed under any
9 authorized license or permit.

10 (2) A person convicted under this section shall be
11 imprisoned for not more than one year."

12 Section 40. Title 11 of the Code of the Federated States of
13 Micronesia, as amended, is hereby further amended by adding a new
14 section 509 of chapter 5 to read as follows:

15 "Section 509. Flight to avoid prosecution or giving
16 testimony.

17 (1) A person commits a crime if he or she moves or
18 travels in interstate or foreign commerce with intent
19 either:

20 (a) to avoid prosecution, or custody, or
21 confinement after conviction, under the laws of the
22 jurisdiction from which the fugitive flees, for a crime
23 or an attempt to commit a crime which is a felony under
24 the laws of the jurisdiction from which the fugitive
25 flees;

26 (b) to avoid giving testimony in any criminal

1 proceedings in such jurisdiction in which the commission
2 of a crime which is a felony under the laws of such
3 jurisdiction is charged; or

4 (c) to avoid service of, or contempt proceedings
5 for alleged disobedience of, lawful process requiring
6 attendance and the giving of testimony or the production
7 of documentary evidence before an agency of a
8 jurisdiction empowered by the law of such jurisdiction
9 to conduct investigations of alleged criminal
10 activities.

11 (2) A person convicted under this section shall be
12 imprisoned:

13 (a) for not more than three years if the required
14 appearance was to answer to a charge of a felony, or for
15 disposition of any such charge, and the defendant took
16 flight or went into hiding to avoid apprehension, trial,
17 or punishment;

18 (b) otherwise, by imprisonment for not more than
19 one year.

20 (3) Violations of this section may be prosecuted only
21 in the Federated States of Micronesia Supreme Court
22 sitting in the State in which the original crime was
23 alleged to have been committed, or in which the person
24 was held in custody or confinement, or in which an
25 avoidance of service of process or a contempt referred
26 to in subsection (1)(c) of this section is alleged to

1 have been committed, and only upon formal approval in
2 writing by the Secretary of the Department of Justice,
3 or an assistant Attorney General of the Federated States
4 of Micronesia, whose function of approving prosecutions
5 may not be delegated."

6 Section 41. Title 11 of the Code of the Federated States of
7 Micronesia, as amended, is hereby further amended by enacting a
8 new subchapter II of chapter 5 entitled "Public Officials Code of
9 Conduct".

10 Section 42. Title 11 of the Code of the Federated States of
11 Micronesia, as amended, is hereby further amended by adding a new
12 section 510 of chapter 5 to read as follows:

13 "Section 510. Policy. Inherent in the success of any
14 democracy is the trust of its citizens in the honesty
15 and integrity of its public officials. To encourage
16 such trust and insure the integrity of public office, a
17 standardized code of conduct is needed. A public
18 official must conduct himself or herself in such a way,
19 in both public and private life, so as not to:

20 (1) place himself or herself in a position in which
21 there exists a conflict of interest or in which the fair
22 exercise of his or her public or official duties might
23 be compromised;

24 (2) demean his or her office or position;

25 (3) call into question his or her integrity;

26 (4) endanger or diminish respect for or confidence in

1 the integrity of the Federated States of Micronesia,
2 National Government; or

3 (5) actually use or give the appearance of using his
4 or her public office for personal gain."

5 Section 43. Title 11 of the Code of the Federated States of
6 Micronesia, as amended, is hereby further amended by adding a new
7 section 511 of chapter 5 to read as follows:

8 "Section 511. Definitions. The definitions in this
9 section shall apply throughout this title, unless
10 otherwise specified or a different meaning is plainly
11 required.

12 (1) 'Benefit' shall mean gain or advantage of any
13 kind, and shall include financial gain, property,
14 service, or improvement of condition.

15 (2) 'Business' shall mean businesses of any kind
16 whether situated in the Federated States of Micronesia
17 or elsewhere and whether incorporated or not.

18 (3) 'Family member' shall mean a parent, brother,
19 sister, spouse, nephew, niece or child, including a
20 person who is adopted legally or in accordance with
21 custom, or for whom care was given by the public
22 official such that there exists a relationship in the
23 nature of parent and child. The term shall also include
24 a spouse of any person referred to in this definition
25 and their children.

26 (4) 'Interest' shall mean either direct ownership of,

1 indirect ownership of, shares in, financial benefit
2 from, or complete or partial control of, such property
3 or business.

4 (5) 'National Government' shall mean the National
5 Government of the Federated States of Micronesia.

6 (6) 'Property' shall mean real or personal property of
7 every description whether situated in the Federated
8 States of Micronesia or elsewhere."

9 Section 44. Title 11 of the Code of the Federated States of
10 Micronesia, as amended, is hereby further amended by adding a new
11 section 512 of chapter 5 to read as follows:

12 "Section 512. Conflict of interest.

13 (1) A public official who willingly participates in a
14 matter in which he or she knows or reasonably should
15 know there exists a conflict of interest commits a
16 crime.

17 (2) A public official has a conflict of interest in a
18 matter if the public official or a family member could
19 benefit directly or indirectly from a decision on a
20 matter over which that public official has influence or
21 control, or if a matter over which that public official
22 has influence or control relates in any way to:

23 (a) a business or property the public official
24 directly or indirectly owns or controls;

25 (b) a business or property owned or controlled,
26 directly or indirectly, by a family member of the public

1 official; or

2 (c) a business or property in which the public
3 official has a beneficial interest of any kind, whether
4 through a trust or otherwise.

5 (3) Nothing in this section is meant to interfere with
6 the right of a public official or the family members of
7 a public official to participate in public elections or
8 in decisions of a community or group nature.

9 (4) A person convicted under this section shall be
10 imprisoned for not more than five years."

11 Section 45. Title 11 of the Code of the Federated States of
12 Micronesia, as amended, is hereby further amended by adding a new
13 section 513 of chapter 5 to read as follows:

14 "Section 513. Disqualification of former public
15 officials.

16 (1) A public official who, within one year of the
17 termination of his employment with or appointment to the
18 National Government, knowingly acts as agent or attorney
19 for anyone other than the branch of the National
20 Government or its entity in connection with any judicial
21 or other matter involving a specific party or parties in
22 which the branch of the National Government or its
23 entity is a party or has a direct and substantial
24 interest, and in which that person participated
25 personally and substantially as an officer or employee,
26 commits a crime.

1 (2) Any person who is a business partner or family
2 member of a public official and who acts as agent or
3 attorney for anyone other than the branch of the
4 National Government or its entity in connection with any
5 judicial or other matter in which the branch of the
6 National Government or its entity is a party or has a
7 direct and substantial interest and in which such public
8 official participates or has participated personally and
9 substantially in the conduct of his or her official
10 duties, or which is the subject of his or her official
11 responsibility, commits a crime.

12 (3) A person convicted under this section shall be
13 imprisoned:

14 (a) for not more than five years if the person is
15 a former public official found guilty of a violation of
16 subsection (1) of this section;

17 (b) otherwise, for not more than one year."

18 Section 46. Title 11 of the Code of the Federated States of
19 Micronesia, as amended, is hereby further amended by enacting a
20 new subchapter 3 of chapter 5 entitled "Public Corruption".

21 Section 47. Title 11 of the Code of the Federated States of
22 Micronesia, as amended, is hereby further amended by adding a new
23 section 514 of chapter 5 to read as follows:

24 "Section 514. Official oppression.

25 (1) A person acting or purporting to act in an
26 official capacity on behalf of the Federated States of

1 Micronesia, or taking advantage of such actual or
2 purported capacity, commits a crime if, knowing that his
3 or her conduct is illegal, he or she:

4 (a) subjects another to arrest, detention,
5 search, seizure, mistreatment, dispossession,
6 assessment, lien, or other infringement of personal or
7 property rights; or

8 (b) denies or impedes another in the exercise or
9 enjoyment of any right, privilege, power, or immunity.

10 (2) A person convicted under this section shall be
11 imprisoned for not more than ten years, and shall be
12 disqualified from holding any position in the National
13 Government."

14 Section 48. Title 11 of the Code of the Federated States of
15 Micronesia, as amended, is hereby further amended by adding a new
16 section 515 of chapter 5 to read as follows:

17 "Section 515. Speculating or wagering on official
18 action or information.

19 (1) A public official commits a crime if, in
20 contemplation of official action by himself or herself,
21 or by a governmental unit with which he or she is
22 associated, or in reliance on information to which he or
23 she has access in his or her official capacity and which
24 has not been made public, he or she:

25 (a) acquires a pecuniary interest in any
26 property, transaction, or enterprise which may be

1 affected by such information or official action;

2 (b) speculates or wagers on the basis of such
3 information or official action; or

4 (c) aids another to do any of the foregoing.

5 (2) A person convicted under this section shall be
6 imprisoned for not more than ten years, and shall be
7 disqualified from holding any position in the National
8 Government."

9 Section 49. Title 11 of the Code of the Federated States of
10 Micronesia, as amended, is hereby further amended by adding a new
11 section 516 of chapter 5 to read as follows:

12 "Section 516. Bribery in official and political
13 matters.

14 (1) A person commits the crime of bribery if he or she
15 offers, confers, or agrees to confer upon another, or
16 solicits, accepts, or agrees to accept from another:

17 (a) any pecuniary benefit as consideration for
18 the recipient's decision, opinion, recommendation, vote,
19 or other exercise of discretion as a public official, or
20 as a voter in any election, referendum, or plebiscite of
21 the Federated States of Micronesia;

22 (b) any benefit as consideration for the
23 recipient's decision, vote, recommendation, or other
24 exercise of official discretion as a public official in
25 a judicial or administrative proceeding; or

26 (c) any benefit as consideration for a violation

1 of a known legal duty as a public official.

2 (2) For the purpose of this section, 'public servant'
3 or 'public official' includes, in addition to those
4 persons who are defined as such under section 104 of
5 this title, persons who have been elected, appointed,
6 hired or designated to become a public official although
7 not yet occupying that position.

8 (3) A person convicted under this section shall be
9 imprisoned for not more than ten years, and shall be
10 disqualified from holding any position in the National
11 Government."

12 Section 50. Title 11 of the Code of the Federated States of
13 Micronesia, as amended, is hereby further amended by adding a new
14 section 517 of chapter 5 to read as follows:

15 "Section 517. Threats and other improper influence in
16 official and political matters.

17 (1) A person commits a crime if he or she:

18 (a) threatens unlawful harm to any person with
19 purpose to influence his or her decision, opinion,
20 recommendation, vote, or other exercise of discretion as
21 a public official, or a voter in any election,
22 referendum, or plebiscite of the Federated States of
23 Micronesia;

24 (b) threatens harm to any public official with
25 purpose to influence his or her decision, opinion,
26 recommendation, vote, or other exercise of discretion in

1 a judicial or administrative proceeding;

2 (c) threatens harm to any public official with
3 purpose to influence him or her to violate his or her
4 known legal duty; or

5 (d) privately addresses to any public official
6 who has or will have an official discretion in a
7 judicial or administrative proceeding any
8 representation, entreaty, argument, or other
9 communication with the purpose to influence the outcome
10 on the basis of considerations other than those
11 authorized by law.

12 (2) It is no defense to prosecution under this section
13 that a person whom the defendant sought to influence was
14 not qualified to act in the desired way, whether because
15 he or she had not yet assumed office, or lacked
16 jurisdiction, or for any other reason.

17 (3) A person convicted under this section shall be
18 punished:

19 (a) by imprisonment for not more than ten years
20 if the defendant threatened to commit a crime or made a
21 threat with the purpose to influence a judicial or
22 administrative proceeding;

23 (b) otherwise, by imprisonment for not more than
24 five years."

25 Section 51. Title 11 of the Code of the Federated States of
26 Micronesia, as amended, is hereby further amended by adding a new

1 section 518 of chapter 5 to read as follows:

2 "Section 518. Retaliation for past official action.

3 (1) A person commits a crime if he or she harms
4 another by any unlawful act in retaliation for anything
5 lawfully done by the latter in the capacity of public
6 official.

7 (2) A person convicted under this section shall be
8 imprisoned for not more than ten years."

9 Section 52. Title 11 of the Code of the Federated States of
10 Micronesia, as amended, is hereby further amended by adding a new
11 section 519 of chapter 5 to read as follows:

12 "Section 519. Gifts to public officials by persons
13 subject to their jurisdiction.

14 (1) A public official in any department or agency
15 exercising regulatory functions, or conducting
16 inspections or investigations, or carrying on civil or
17 criminal litigation on behalf of the Government, or
18 having custody of prisoners, commits a crime if he or
19 she solicits, accepts, or agrees to accept any pecuniary
20 benefit from a person known to be subject to such
21 regulation, inspection, investigation, or custody, or
22 against whom such litigation is known to be pending or
23 contemplated.

24 (2) A public official having any discretionary
25 function to perform in connection with contracts,
26 purchases, payments, claims, or other pecuniary

1 transactions of the Government commits a crime if he or
 2 she solicits, accepts, or agrees to accept any pecuniary
 3 benefit from any person known to be interested in or
 4 likely to become interested in any such contract,
 5 purchase, payment, claim, or transaction.

6 (3) A public official having judicial or
 7 administrative authority or employed by or in a court or
 8 other tribunal having such authority, or participating
 9 in the enforcement of its decisions, commits a crime if
 10 he or she solicits, accepts, or agrees to accept any
 11 pecuniary benefit from a person known to be interested
 12 in or likely to become interested in any matter before
 13 such public official or a tribunal with which he or she
 14 is associated.

15 (4) A public official who is a member of the Congress
 16 of the Federated States of Micronesia, or who is
 17 employed by the Congress or by any committee or agency
 18 thereof, commits a crime if he or she solicits, accepts,
 19 or agrees to accept any pecuniary benefit from any
 20 person known to be interested in a bill, transaction, or
 21 proceeding, pending or contemplated, before the Congress
 22 or any committee or agency thereof.

23 (5) This section shall not apply to:

24 (a) fees prescribed by law to be received by a
 25 public official or any other benefit for which the
 26 recipient gives legitimate consideration or to which he

1 or she is otherwise legally entitled;

2 (b) gifts or other benefits conferred on account
3 of custom, tradition, kinship, or other personal,
4 professional, or business relationship independent of
5 the official status of the receiver; or

6 (c) trivial benefits incidental to personal,
7 professional, or business contacts and involving no
8 substantial risk of undermining official impartiality.

9 (6) A person commits a crime if he or she knowingly
10 confers, or offers, or agrees to confer, any benefit
11 prohibited in this section.

12 (7) A person convicted under this section shall be
13 imprisoned for not more than ten years."

14 Section 53. Title 11 of the Code of the Federated States of
15 Micronesia, as amended, is hereby further amended by adding a new
16 section 520 of chapter 5 to read as follows:

17 "Section 520. Compensating public officials for
18 assisting private interests in relation to matters
19 before him or her.

20 (1) A public official commits a crime if he or she
21 solicits, accepts, or agrees to accept compensation for
22 advice or other assistance in preparing or promoting a
23 bill, contract, claim, or other transaction or proposal
24 as to which he or she knows that he or she has or is
25 likely to have an official discretion to exercise.

26 (2) A person commits a crime if he or she pays or

1 offers or agrees to pay compensation to a public
2 official with knowledge that acceptance by the public
3 official is unlawful.

4 (3) A person convicted under this section shall be
5 imprisoned for not more than ten years."

6 Section 54. Title 11 of the Code of the Federated States of
7 Micronesia, as amended, is hereby further amended by adding a new
8 section 521 of chapter 5 to read as follows:

9 "Section 521. Selling political endorsement; special
10 influence.

11 (1) A person commits a crime if he or she solicits,
12 receives, agrees to receive, or agrees that any other
13 person shall receive any pecuniary benefit as
14 consideration for approval or disapproval of an
15 appointment or advancement in public service, or for
16 approval or disapproval of any person or transaction for
17 any benefit conferred by an official or agency of the
18 Government. 'Approval' includes recommendation, failure
19 to disapprove, or any other manifestation of favor or
20 acquiescence. 'Disapproval' includes failure to
21 approve, or any other manifestation of disfavor or
22 nonacquiescence.

23 (2) A person commits a crime if he or she solicits,
24 receives, or agrees to receive any pecuniary benefit as
25 consideration for exerting special influence upon a
26 public servant or procuring another to do so. 'Special

1 influence' means power to influence through kinship,
2 friendship, or other relationship, apart from the merits
3 of the transaction.

4 (3) A person commits a crime if he or she offers,
5 confers, or agrees to confer any pecuniary benefit
6 receipt of which is prohibited by this section.

7 (4) A person convicted under this section shall be
8 imprisoned for not more than ten years, and shall be
9 disqualified from holding any position of honor or trust
10 in the National Government."

11 Section 55. Title 11 of the Code of the Federated States of
12 Micronesia, as amended, is hereby further amended by enacting a
13 new subchapter 4 of chapter 5 entitled "Perjury and Related Crimes
14 of Falsification".

15 Section 56. Title 11 of the Code of the Federated States of
16 Micronesia, as amended, is hereby further amended by adding a new
17 section 522 of chapter 5 to read as follows:

18 "Section 522. Perjury.

19 (1) A person commits the crime of perjury if, in any
20 official proceeding, he or she makes a false statement
21 under oath or equivalent affirmation, or swears or
22 affirms the truth of a statement previously made, when
23 the statement is material and he or she does not believe
24 it to be true.

25 (2) Falsification is material, regardless of the
26 admissibility of the statement under rules of evidence,

1 if it could have affected the course or outcome of the
2 proceeding. It is no defense that the declarant
3 mistakenly believed the falsification immaterial.

4 (3) A person convicted of perjury shall be punished by
5 not more than five years imprisonment."

6 Section 57. Title 11 of the Code of the Federated States of
7 Micronesia, as amended, is hereby further amended by adding a new
8 section 523 of chapter 5 to read as follows:

9 "Section 523. False swearing in official matters.

10 (1) A person commits the crime of false swearing if:

11 (a) he or she makes a false statement under oath
12 or equivalent affirmation, or swears or affirms the
13 truth of such a statement previously made, when he or
14 she does not believe the statement to be true, and:

15 (i) the falsification occurs in an official
16 proceeding;

17 (ii) the falsification is intended to mislead
18 a public servant in performing his or her official
19 function; or

20 (b) he or she makes a false statement under oath
21 or equivalent affirmation, or swears or affirms the
22 truth of such a statement previously made, when he or
23 she does not believe the statement to be true and the
24 statement is one which is required by statute or
25 regulation of the Federated States of Micronesia to be
26 sworn or affirmed before a notary or other person

1 authorized to administer oaths.

2 (2) A person convicted of false swearing shall be
3 imprisoned for not more than five years."

4 Section 58. Title 11 of the Code of the Federated States of
5 Micronesia, as amended, is hereby further amended by adding a new
6 section 524 of chapter 5 to read as follows:

7 "Section 524. Unsworn falsification to authorities.

8 (1) A person commits the crime of falsification if,
9 with purpose to mislead a public servant in performing
10 his or her official function, he or she:

11 (a) makes any written false statement which he or
12 she does not believe to be true;

13 (b) purposely creates a false impression in a
14 written application for any pecuniary or other benefit,
15 by omitting information necessary to prevent statements
16 therein from being misleading;

17 (c) submits or invites reliance on any writing
18 which he or she knows to be forged, altered, or
19 otherwise lacking in authenticity; or

20 (d) submits or invites reliance on any sample,
21 specimen, map, boundary mark, or other object which he
22 or she knows to be false.

23 (2) A person commits the crime of falsification if he
24 or she makes a written false statement which he or she
25 does not believe to be true, on or pursuant to a form
26 bearing notice, authorized by statute or regulation of

1 the Federated States of Micronesia, to the effect that
2 false statements made therein are punishable.

3 (3) A person convicted under this section shall be
4 imprisoned for not more than five years."

5 Section 59. Title 11 of the Code of the Federated States of
6 Micronesia, as amended, is hereby further amended by adding a new
7 section 525 of chapter 5 to read as follows:

8 "Section 525. Limitations on prosecutions of perjury
9 and related crimes. The following limitations apply to
10 prosecutions under sections 522, 523 and 524 of this
11 title:

12 (1) It is not a defense that the oath or affirmation
13 was administered or taken in an irregular manner or that
14 the declarant was not competent to make the statement.
15 A document purporting to be made upon oath or
16 affirmation at any time when the defendant presents it
17 as being so verified shall be deemed to have been duly
18 sworn or affirmed.

19 (2) No person shall be guilty of a crime if he or she
20 retracted the falsification in the course of the
21 proceeding in which it was made before it became
22 manifest that the falsification was or would be exposed
23 and before the falsification substantially affected the
24 proceeding.

25 (3) Where the defendant made inconsistent statements
26 under oath or equivalent affirmation, both having been

1 made within the period of the statute of limitations,
2 the prosecution may proceed by setting forth the
3 inconsistent statements in a single count alleging in
4 the alternative that one or the other was false and not
5 believed by the defendant. In such case, it shall not
6 be necessary for the prosecution to prove which
7 statement was false but only that one or the other was
8 false and not believed by the defendant to be true.

9 (4) No person shall be convicted of a crime where
10 proof of falsity rests solely upon contradiction by
11 testimony of a single person other than the defendant."

12 Section 60. Title 11 of the Code of the Federated States of
13 Micronesia, as amended, is hereby further amended by adding a new
14 section 526 of chapter 5 to read as follows:

15 "Section 526. Tampering with witnesses and informants.

16 (1) A person commits a crime if, believing that an
17 official proceeding or investigation is pending or about
18 to be instituted, he or she:

19 (a) attempts to induce or otherwise cause a
20 witness or informant to:

21 (i) testify or inform falsely;

22 (ii) withhold any testimony, information,
23 document, or thing;

24 (iii) elude legal process summoning him to
25 testify or supply evidence;

26 (iv) absent himself from any proceeding or

1 investigation to which he or she has been legally
2 summoned; or

3 (b) being a witness or informant, solicits,
4 accepts, or agrees to accept any benefit in
5 consideration of his or her doing any of the things
6 specified in subsection (1)(a) of this section.

7 (2) A person convicted under this section shall be
8 imprisoned for not more than five years."

9 Section 61. Title 11 of the Code of the Federated States of
10 Micronesia, as amended, is hereby further amended by adding a new
11 section 527 of chapter 5 to read as follows:

12 "Section 527. Retaliation against witness or informant.

13 (1) A person commits a crime if he or she harms
14 another by any unlawful act in retaliation for anything
15 lawfully done in that other person's capacity of witness
16 or informant.

17 (2) A person convicted under this section shall be
18 imprisoned for not more than five years."

19 Section 62. Title 11 of the Code of the Federated States of
20 Micronesia, as amended, is hereby further amended by adding a new
21 section 528 of chapter 5 to read as follows:

22 "Section 528. Tampering with or fabricating physical
23 evidence.

24 (1) A person commits a crime if, believing that an
25 official proceeding or investigation is pending or about
26 to be instituted, he or she:

1 (a) alters, destroys, conceals, or removes any
2 record, document, or thing with the purpose to impair
3 its verity or availability in such proceeding or
4 investigation; or

5 (b) makes, presents, or uses any record,
6 document, or thing knowing it to be false and with the
7 purpose to mislead a public servant who is or may be
8 engaged in such proceeding or investigation.

9 (2) A person convicted under this section shall be
10 imprisoned for not more than five years."

11 Section 63. Title 11 of the Code of the Federated States of
12 Micronesia, as amended, is hereby further amended by adding a new
13 section 529 of chapter 5 to read as follows:

14 "Section 529. Tampering with public records or
15 information.

16 (1) A person commits a crime if he or she:

17 (a) knowingly makes a false entry in, or false
18 alteration of, any record, document, or thing received
19 or kept by a public servant, or belonging to the
20 Government of the Federated States of Micronesia for
21 information or record, or required by statute or
22 regulation of the Federated States of Micronesia to be
23 kept by anyone for information of the Government;

24 (b) makes, presents, or uses any record,
25 document, or thing knowing it to be false, and with the
26 purpose that it be taken as a genuine part of

1 information or records referred to in paragraph (a) of
2 this subsection; or

3 (c) purposely and unlawfully destroys, conceals,
4 removes, or otherwise impairs the verity or availability
5 of any such record, document, or thing.

6 (2) A person convicted under this section shall be
7 punished:

8 (a) by imprisonment for not more than five years
9 if the defendant's purpose was to defraud or injure
10 anyone;

11 (b) otherwise, by imprisonment for not more than
12 one year."

13 Section 64. Title 11 of the Code of the Federated States of
14 Micronesia, as amended, is hereby further amended by adding a new
15 section 530 of chapter 5 to read as follows:

16 "Section 530. Impersonating a public servant.

17 (1) A person commits a crime if he or she falsely
18 pretends to be a public servant with the purpose to
19 induce another to submit to such pretended official
20 authority or otherwise to act in reliance upon that
21 pretense to his or her prejudice.

22 (2) A person convicted under this section shall be
23 imprisoned for not more than one year."

24 Section 65. Title 11 of the Code of the Federated States of
25 Micronesia, as amended, is hereby further amended by enacting a
26 new chapter 6 entitled "Crimes Against Property and Persons".

1 Section 66. Title 11 of the Code of the Federated States of
2 Micronesia, as amended, is hereby further amended by adding a new
3 section 601 of chapter 6 to read as follows:

4 "Section 601. Definitions. As used in this chapter:

5 (1) 'Deprive' means:

6 (a) to withhold property of another permanently
7 or for so extended a period as to appropriate a major
8 portion of its economic value, or with intent to restore
9 only upon payment of reward or other compensation; or

10 (b) to dispose of the property so as to make it
11 unlikely that the owner will recover it.

12 (2) 'Financial institution' means a bank, insurance
13 company, credit union, building and loan association,
14 investment trust, or other organization held out to the
15 public as a place of deposit of funds or medium of
16 savings or collective investment.

17 (3) 'Government' means the Federated States of
18 Micronesia, and any department, agency, or subdivision
19 thereof, or any corporation or other association
20 carrying out the functions of Government.

21 (4) 'Movable property' means property, the location of
22 which can be changed, including things growing on,
23 affixed to, or found on land, and documents, although
24 the rights represented thereby have no physical
25 location. 'Immovable property' is all other property.

26 (5) 'Obtain' means:

1 (a) in relation to property, to bring about a
2 transfer or purported transfer of a legal interest in
3 the property, whether to the obtainer or another; or

4 (b) in relation to labor or service, to secure
5 performance thereof.

6 (6) 'Property' means anything of value, including real
7 estate, tangible and intangible personal property,
8 contract rights, choses-in-action, and other interests
9 in or claims to wealth, admission, or transportation
10 tickets, captured or domestic animals, food and drink,
11 electric or other power.

12 (7) 'Property of another' includes property in which
13 any person other than the defendant has an interest
14 which the actor is not privileged to infringe,
15 regardless of the fact that the defendant also has an
16 interest in the property and regardless of the fact that
17 the other person might be precluded from civil recovery
18 because the property was used in an unlawful transaction
19 or was subject to forfeiture as contraband. Property in
20 possession of the defendant shall not be deemed property
21 of another who has only a security interest therein,
22 even if legal title is in the creditor pursuant to a
23 conditional sales contract or other security agreement.

24 (8) Receiving stolen property.

25 (a) A person commits theft if he purposely
26 receives, retains, or disposes of movable property of

1 another knowing that it has been stolen, or believing
2 that it has probably been stolen, unless the property is
3 received, retained, or disposed of with the purpose to
4 restore it to the owner.

5 (b) 'Receiving' means acquiring possession,
6 control, or title of the property.

7 (9) Theft by deception.

8 (a) A person commits theft if he purposely
9 obtains property of another by deception. A person
10 deceives if he purposely:

11 (i) creates or reinforces a false
12 impression, including false impressions as to law,
13 value, intention, or other state of mind, but deception
14 as to a person's intention to perform a promise shall
15 not be inferred from the fact alone that he did not
16 subsequently perform the promise;

17 (ii) prevents another from acquiring
18 information which would affect his judgment of a
19 transaction;

20 (iii) fails to correct a false impression
21 which the deceiver previously created or reinforced, or
22 which the deceiver knows to be influencing another to
23 whom he stands in a fiduciary or confidential
24 relationship; or

25 (iv) fails to disclose a known lien, adverse
26 claim, or other legal impediment to the enjoyment of

1 property which he transfers or encumbers in
2 consideration for the property obtained, whether such
3 impediment is or is not valid, or is or is not a matter
4 of official record.

5 (b) The term 'deceive' does not, however, include
6 falsity as to matters having no pecuniary significance,
7 or puffing by statements unlikely to deceive ordinary
8 persons in the group addressed.

9 (10) Theft by extortion.

10 (a) A person commits theft if he purposely
11 obtains property of another by threatening to:

12 (i) inflict bodily injury on anyone or
13 commit any other crime;

14 (ii) accuse anyone of a crime;

15 (iii) expose any secret tending to subject any
16 person to hatred, contempt, or ridicule, or to impair
17 his credit or business repute;

18 (iv) take or withhold action as an official,
19 or cause an official to take or withhold action;

20 (v) testify or provide information or
21 withhold testimony or information with respect to
22 another's legal claim or defense; or

23 (vi) inflict any other harm which would not
24 benefit the defendant.

25 (b) It is an affirmative defense to prosecution
26 based on subsection (10) (a) (ii), (iii), or (iv) of this

1 section that the property obtained by threat of
2 accusation, exposure, lawsuit, or other invocation of
3 official action was honestly claimed as restitution or
4 indemnification for harm done in the circumstances to
5 which such accusation, exposure, lawsuit, or other
6 official action relates, or as compensation for property
7 or lawful services.

8 (11) Theft by failure to make required disposition of
9 funds received. A person who purposely obtains property
10 upon agreement, or subject to a known legal obligation
11 to make a specified payment or other disposition,
12 whether from such property or its proceeds or from his
13 own property in equivalent amount, commits theft if he
14 deals with the property obtained as his own and fails to
15 make the required payment or disposition. The foregoing
16 applies notwithstanding that it may be impossible to
17 identify particular property as belonging to the victim
18 at the time of the defendant's failure to make the
19 required payment or disposition. An officer or employee
20 of the Government or of a financial institution is
21 presumed:

22 (a) to know of any legal obligation relevant to
23 his criminal liability under this section; and

24 (b) to have dealt with the property as his own if
25 he fails to pay or account for upon lawful demand, or if
26 an audit reveals a shortage or falsification of

1 accounts.

2 (12) Theft by unlawful taking or disposition.

3 (a) A person commits theft if he unlawfully takes
4 or exercises unlawful control over movable property of
5 another with the purpose to deprive him thereof.

6 (b) A person commits theft if he unlawfully
7 transfers immovable property of another or any interest
8 therein, with the purpose to benefit himself or another
9 not entitled thereto.

10 (13) Theft of property lost, mislaid, or delivered by
11 mistake. A person who comes into control of the
12 property of another that he knows to have been lost,
13 mislaid, or delivered under a mistake as to the nature
14 or amount of the property or the identity of the
15 recipient, commits theft if, with the purpose to deprive
16 the owner thereof, he fails to take reasonable measures
17 to restore the property to the person entitled to have
18 it.

19 (14) Theft of services.

20 (a) A person commits theft if he purposely
21 obtains services which he knows are available only for
22 compensation, by deception or threat, or by false token
23 or other means to avoid payment for the service.
24 Services include labor, professional service,
25 transportation, telephone or other public service,
26 accommodation in hotels, restaurants, or elsewhere,

1 admission to exhibitions, and use of vehicles or other
2 movable property.

3 (b) A person commits theft if, having control
4 over the disposition of the services of others to which
5 he is not entitled, he knowingly diverts such services
6 to his own benefit or to the benefit of another not
7 entitled thereto."

8 Section 67. Title 11 of the Code of the Federated States of
9 Micronesia, as amended, is hereby further amended by adding a new
10 section 602 of chapter 6 to read as follows:

11 "Section 602. Theft.

12 (1) A person commits the crime of theft if he or she
13 commits theft of any property or service in which
14 another person has any legal, equitable, or possessory
15 interest.

16 (2) The amount involved in a theft shall be deemed to
17 be the highest value, by any reasonable standard, of the
18 property or service which the defendant stole or
19 attempted to steal. Amounts involved in thefts
20 committed pursuant to one scheme or course of conduct,
21 whether from the same person or several persons, may be
22 aggregated in determining whether a crime has been
23 committed and the grade of such crime.

24 (3) It is an affirmative defense to prosecution for
25 theft that the defendant:

26 (a) was unaware that the property or service was

1 that of another;

2 (b) acted under an honest claim of right to the
3 property or service involved or that he had a right to
4 acquire or dispose of it as he did; or

5 (c) took property exposed for sale, intending to
6 purchase and pay for it promptly, or reasonably
7 believing that the owner, if present, would have
8 consented.

9 (4) A person convicted under this section shall be
10 imprisoned:

11 (a) if the value of the property or service is
12 \$5,000 or more, for not more than ten years;

13 (b) if the value of the property or service is at
14 least \$1,000 but less than \$5,000, for not more than
15 five years;

16 (c) if the value of the property or service is at
17 least \$100 but less than \$1,000, for not more than one
18 year;

19 (d) if the value of the property or service is at
20 least \$25 but less than \$100 for not more than six
21 months; or

22 (e) if the value of the property or service is
23 less than \$25, for not more than thirty days."

24 Section 68. Title 11 of the Code of the Federated States of
25 Micronesia, as amended, is hereby further amended by adding a new
26 section 603 of chapter 6 to read as follows:

1 "Section 603. Criminal mischief.

2 (1) A person commits the crime of criminal mischief if
3 he or she intentionally or recklessly:

4 (a) causes any damage to property in which
5 another person has any legal, equitable, or possessory
6 interest; or

7 (b) causes another person by deception or threat
8 to suffer any loss.

9 (2) The amount involved in a crime of criminal
10 mischief shall be deemed to be the highest value, by any
11 reasonable standard, of the loss which the defendant
12 caused or attempted to cause. Amounts involved in acts
13 of criminal mischief, committed pursuant to one scheme
14 or course of conduct, may be aggregated in determining
15 the grade of such crime.

16 (3) It is an affirmative defense to prosecution under
17 subsection (1)(a) of this section that the defendant:

18 (a) was unaware that the property was that of
19 another; or

20 (b) acted under an honest claim of right to
21 dispose of the property as he or she did.

22 (4) A person convicted under this section shall be
23 imprisoned:

24 (a) if the value of the property or service is
25 \$5,000 or more, for not more than ten years;

26 (b) if the value of the property or service is at
27 least \$1,000 but less than \$5,000, for not more than
28 five years;

29 (c) if the value of the property or service is at
30 least \$100 but less than \$1,000, for not more than one
31 year;

32 (d) if the value of the property or service is at
33 least \$25 but less than \$100, for not more than six
34 months; or

1 (e) if the value of the property or service is
2 less than \$25, for not more than thirty days."

3 Section 69. Title 11 of the Code of the Federated States of
4 Micronesia, as amended, is hereby further amended by adding a new
5 section 604 of chapter 6 to read as follows:

6 "Section 604. Unauthorized possession or removal of
7 property.

8 (1) A person commits a crime if, knowing he or she
9 does not have proper authority, he or she has in his or
10 her possession, or has removed from its location any
11 property, wherever situated, in which another person has
12 any legal, equitable, or possessory interest.

13 (2) The amount involved in a violation of subsection
14 (1) of this section shall be deemed to be the highest
15 value, by any reasonable standard, of either the loss to
16 the Government or the fair rental value of the property
17 involved. Amounts involved in acts of unauthorized
18 possession or removal committed pursuant to one scheme
19 or course of conduct may be aggregated in determining
20 the grade of such crime.

21 (3) A person convicted under this section shall be
22 imprisoned:

23 (a) if the value of the property or service is
24 \$5,000 or more, for not more than ten years;

25 (b) if the value of the property or service is at
26 least \$1,000 but less than \$5,000, for not more than

1 five years;

2 (c) if the value of the property or service is at
3 least \$100 but less than \$1,000, for not more than one
4 year;

5 (d) if the value of the property or service is at
6 least \$25 but less than \$100 for not more than six
7 months; or

8 (e) if the value of the property or service is
9 less than \$25, for not more than thirty days."

10 Section 70. Title 11 of the Code of the Federated States of
11 Micronesia, as amended, is hereby further amended by adding a new
12 section 605 of chapter 6 to read as follows:

13 "Section 605. Trespassing.

14 (1) A person commits the crime of trespassing if he or
15 she knowingly enters or remains unlawfully on any
16 property owned, operated, or controlled by another
17 person.

18 (2) A person convicted under this section shall be
19 punished:

20 (a) by imprisonment for not more than three years
21 if the defendant entered or remained in any building or
22 structure, or in any area that is fenced or enclosed in
23 such a manner as to exclude intruders:

24 (i) at night;

25 (ii) while in possession of a dangerous
26 weapon;

1 (iii) while any other person is lawfully
2 present on the premises;

3 (iv) with the purpose to commit any crime
4 therein; or

5 (b) otherwise, by imprisonment for not more than
6 one year."

7 Section 71. Title 11 of the Code of the Federated States of
8 Micronesia, as amended, is hereby further amended by adding a new
9 section 606 of chapter 6 to read as follows:

10 "Section 606. Murder.

11 (1) Except as provided in section 607(1)(b) of this
12 title, a person commits the crime of murder if he or she
13 unlawfully causes the death of another human being:

14 (a) intentionally or knowingly; or

15 (b) recklessly under circumstances manifesting
16 extreme indifference to the value of human life.

17 (2) A person convicted under this section shall be
18 imprisoned for a minimum of ten years, and may be
19 imprisoned for life."

20 Section 72. Title 11 of the Code of the Federated States of
21 Micronesia, as amended, is hereby further amended by adding a new
22 section 607 of chapter 6 to read as follows:

23 "Section 607. Manslaughter.

24 (1) A person commits a crime if he or she causes the
25 death of another human being when:

26 (a) the person has acted recklessly; or

1 (b) a homicide which would otherwise be murder is
2 committed under the influence of extreme mental or
3 emotional disturbance for which there is reasonable
4 explanation or excuse. The reasonableness of such
5 explanation or excuse shall be determined from the
6 viewpoint of a person in the defendant's situation under
7 the circumstances as he believes them to be.

8 (2) A person convicted under this section shall be
9 imprisoned for not more than ten years."

10 Section 73. Title 11 of the Code of the Federated States of
11 Micronesia, as amended, is hereby further amended by adding a new
12 section 608 of chapter 6 to read as follows:

13 "Section 608. Aggravated Assault.

14 (1) A person commits a crime if he or she causes
15 serious bodily injury to another intentionally,
16 knowingly, or recklessly under circumstances showing
17 extreme indifference to the value of human life.

18 (2) A person convicted under this section shall be
19 imprisoned for not more than ten years."

20 Section 74. Title 11 of the Code of the Federated States of
21 Micronesia, as amended, is hereby further amended by adding a new
22 section 609 of chapter 6 to read as follows:

23 "Section 609. Assault.

24 (1) A person commits a crime if he or she unlawfully
25 and intentionally offers or attempts, with force or
26 violence, to strike, beat, wound, or do bodily harm to

1 another.

2 (2) A person convicted under this section shall be
3 imprisoned for not more than one year."

4 Section 75. Title 11 of the Code of the Federated States of
5 Micronesia, as amended, is hereby further amended by adding a new
6 section 610 of chapter 6 to read as follows:

7 "Section 610. Kidnapping.

8 (1) A person commits a crime if he or she unlawfully
9 removes another from his place of residence or business,
10 or a substantial distance from the vicinity where he is
11 found, or if he or she unlawfully confines another for a
12 substantial period in a place of isolation, with any of
13 the following purposes:

14 (a) to hold for ransom or reward, or as a shield
15 or hostage;

16 (b) to facilitate commission of any felony or
17 flight thereafter;

18 (c) to inflict bodily injury on or to terrorize
19 the victim or another; or

20 (d) to interfere with the performance of any
21 government or political function.

22 (2) A removal or confinement is unlawful under this
23 section if it is accomplished by force, threat, or
24 deception, or, in the case of a person who is under the
25 age of fourteen or incompetent, without the consent of a
26 parent, guardian, or other person responsible for

1 general supervision of the child or incompetent person's
2 welfare.

3 (3) A person convicted under this section shall be
4 imprisoned for not more than ten years."

5 Section 76. Title 11 of the Code of the Federated States of
6 Micronesia, as amended, is hereby further amended by enacting a
7 new chapter 7 entitled "Civil Rights".

8 Section 77. Title 11 of the Code of the Federated States of
9 Micronesia, as amended, is hereby further amended by adding a new
10 section 701 of chapter 7 to read as follows:

11 "Section 701. Deprivation of rights.

12 (1) A person commits a crime if he or she willfully,
13 whether or not acting under the color of law, deprives
14 another of, or injures, oppresses, threatens, or
15 intimidates another in the free exercise or enjoyment
16 of, or because of his or her having so exercised any
17 right, privilege, or immunity secured to him by the
18 Constitution or laws of the Federated States of
19 Micronesia, the laws of the Trust Territory of the
20 Pacific Islands, or the Constitution or laws of the
21 United States of America which are applicable to the
22 Federated States of Micronesia.

23 (2) A person convicted under this section shall be
24 imprisoned for not more than ten years.

25 (3) A person who deprives another of any right or
26 privilege protected under this section shall be civilly

1 liable to the party injured in an action at law, suit in
2 equity, or other proper proceeding for redress, without
3 regard to whether a criminal case has been brought or
4 conviction obtained. In an action brought under this
5 section, the court may award costs and reasonable
6 attorney's fees to the prevailing party."

7 Section 78. Title 11 of the Code of the Federated States of
8 Micronesia, as amended, is hereby further amended by adding a new
9 section 702 of chapter 7 to read as follows:

10 "Section 702. Right to full and equal enjoyment of
11 public accommodations.

12 (1) Definitions.

13 (a) Equal access. All persons shall be entitled,
14 without discrimination on the grounds of race, color,
15 religion, language, place of origin, or gender, to the
16 full and equal enjoyment of goods, services, facilities,
17 privileges, advantages, and accommodations of:

18 (i) any department, agency, or institution
19 of, or acting on behalf of, the Federated States of
20 Micronesia; or

21 (ii) any public accommodation which affects
22 commerce, as defined in this section.

23 (b) 'Public accommodation' means any
24 establishment which provides lodging to transient guests
25 for charge, or any establishment which is engaged in
26 selling food, beverage, or gasoline to the public, or

1 any place of recreation, amusement, exhibition,
2 sightseeing, or entertainment which is open to members
3 of the public, or any facility for the public
4 transportation of persons or goods.

5 (c) A public accommodation affects commerce if:

6 (i) it is a place of lodging;

7 (ii) it serves or offers to serve interstate
8 travelers; or

9 (iii) a substantial portion of the goods or
10 entertainment it sells or provides has moved in
11 commerce.

12 (d) 'Commerce' means travel, trade, traffic,
13 transportation, communication, and all other forms of
14 commerce among the several States, or between any State
15 and any foreign country or other area outside the
16 Federated States of Micronesia, or between points in the
17 same State but through any area outside the State.

18 (2) This section shall not apply to any private club
19 or other establishment not in fact, open to the public,
20 except to the extent that the facilities of such
21 establishment are made available to the customers or
22 patrons of an establishment within the scope of
23 subsection (1) of this section.

24 (3) A person commits a crime if he or she:

25 (a) withholds, denies, deprives, or attempts to
26 withhold, deny, or deprive any person of any right or

1 privilege protected under this section;

2 (b) intimidates, threatens, coerces, or attempts
3 to intimidate, threaten, or coerce any person for the
4 purpose of interfering with any right or privilege
5 protected under this section; or

6 (c) punishes or attempts to punish any person for
7 exercising or attempting to exercise any right or
8 privilege protected under this section.

9 (4) A person convicted under this section shall be
10 imprisoned for not more than five years.

11 (5) A person who deprives another of any right or
12 privilege protected under this section shall be civilly
13 liable to the party injured in an action at law, suit in
14 equity, or other proper proceeding for redress, without
15 regard to whether a criminal case has been brought or
16 conviction obtained. In an action brought under this
17 subsection, the court may award costs and reasonable
18 attorney's fees to the prevailing party."

19 Section 79. Title 11 of the Code of the Federated States of
20 Micronesia, as amended, is hereby further amended by enacting a
21 new chapter 8 entitled "Emergency Proclamations".

22 Section 80. Title 11 of the Code of the Federated States of
23 Micronesia, as amended, is hereby further amended by adding a new
24 section 801 of chapter 8 to read as follows:

25 "Section 801. Proclamation of emergency. When required
26 to preserve public peace, health, or safety in any area,

1 at a time of extreme emergency caused by civil
2 disturbance, natural disaster, or immediate threat of
3 war, or insurrection, the President of the Federated
4 States of Micronesia may declare a state of emergency
5 and issue appropriate decrees."

6 Section 81. Title 11 of the Code of the Federated States of
7 Micronesia, as amended, is hereby further amended by adding a new
8 section 802 of chapter 8 to read as follows:

9 "Section 802. Emergency restrictions.

10 (1) During the existence of a state of emergency, the
11 President may, by proclamation, prohibit:

12 (a) any person being on the public roads or at
13 any other public place during the hours proclaimed by
14 the President to be a period of curfew;

15 (b) the manufacture, transfer, use, possession,
16 or transportation of any device or object designed to
17 explode or produce uncontained combustion;

18 (c) the transportation, possession, or use of
19 combustible, flammable, or explosive materials in a
20 container of any kind except in connection with the
21 normal operation of motor vehicles, motor boats, normal
22 home use, or legitimate commercial use;

23 (d) the possession of firearms or any other
24 dangerous weapon by a person in any place other than his
25 or her place of residence, work, or business;

26 (e) the sale, purchase, dispensing, importing, or

1 exporting of alcoholic beverages or other commodities or
2 goods designated by the President;

3 (f) the use of certain roads by the public; and

4 (g) other activities the President reasonably
5 believes should be prohibited to help preserve public
6 peace, health, or safety.

7 (2) Any proclamation issued under this section becomes
8 effective immediately upon being signed by the
9 President, who shall immediately give public notice of
10 its contents by the most effective means available. The
11 restrictions may be imposed during times, upon
12 conditions, with exceptions and in areas designated by
13 proclamation of the President.

14 (3) Prohibitions imposed by proclamation issued under
15 this section, shall automatically terminate at noon on
16 the fifth day after it becomes effective unless sooner
17 terminated by proclamation of the President "

18 Section 82. Title 11 of the Code of the Federated States of
19 Micronesia, as amended, is hereby further amended by adding a new
20 section 803 of chapter 8 to read as follows:

21 "Section 803. Crime defined and penalty. Any person
22 who, during a state of emergency, fails to comply with
23 restrictions imposed by proclamation of the President
24 under section 802 of this title commits a crime, and
25 upon conviction, shall be punished by imprisonment for
26 not more than five years."

1 Section 83. Title 11 of the Code of the Federated States of
2 Micronesia, as amended, is hereby further amended by adding a new
3 section 804 of chapter 8 to read as follows:

4 "Section 804. Powers not limited. Nothing in this
5 chapter shall limit any other power to maintain the
6 public peace and safety which is vested in the
7 President."

8 Section 84. Title 11 of the Code of the Federated States of
9 Micronesia, as amended, is hereby further amended by enacting a
10 new chapter 9 entitled "Money Laundering and Proceeds of Crime".

11 Section 85. Title 11 of the Code of the Federated States of
12 Micronesia, as amended, is hereby further amended by enacting a
13 new subchapter I of chapter 9 entitled "General Provisions".

14 Section 86. Title 11 of the Code of the Federated States of
15 Micronesia, as amended, is hereby further amended by adding a new
16 section 901 of chapter 9 to read as follows:

17 "Section 901. Purpose. The purpose of this chapter is
18 to provide for the confiscation of the proceeds of crime
19 and property used in the commission of serious crime,
20 and to prevent the use of the financial system to
21 launder the proceeds of serious crime."

22 Section 87. Title 11 of the Code of the Federated States of
23 Micronesia, as amended, is hereby further amended by adding a new
24 section 902 of chapter 9 to read as follows:

25 "Section 902. Jurisdiction and application. The
26 provisions of this chapter shall extend and apply

1 throughout all of the Federated States of Micronesia,
2 including the land and waters and the airspace above
3 such land and waters with respect to which the Federated
4 States of Micronesia has legislative jurisdiction."

5 Section 88. Title 11 of the Code of the Federated States of
6 Micronesia, as amended, is hereby further amended by adding a new
7 section 903 of chapter 9 to read as follows:

8 "Section 903. Definition. Under this chapter, unless
9 the context otherwise requires:

10 (1) 'Account' means any facility or arrangement by
11 which a financial institution or cash dealer does any
12 one or more of the following:

13 (a) accepts deposits of currency;

14 (b) allows withdrawals of currency or transfers
15 into or out of the account;

16 (c) pays checks or payment orders drawn on a
17 financial institution or cash dealer or collects checks
18 or payment orders, made by or on behalf of a person; or

19 (d) supplies a facility or arrangement for a
20 safety deposit box.

21 (2) 'Appeal' includes proceedings by way of
22 discharging or setting aside a judgment, and an
23 application for a new trial or for a stay of execution.

24 (3) 'Authorized officer' means a person or class
25 of persons designated or authorized by the Secretary
26 pursuant to applicable law as an authorized officer or

1 officers for the purposes of enforcing or implementing
2 the provisions of this chapter and related laws.

3 (4) 'Cash dealer' means:

4 (a) a person who carries on a business of an
5 insurer, an insurance intermediary, a securities dealer
6 or a futures broker;

7 (b) a person who carries on a business of dealing
8 in bullion, of issuing, selling or redeeming travelers
9 checks, money orders or similar instruments, or of
10 collecting, holding and delivering cash as part of a
11 business providing payroll services;

12 (c) an operator of a gambling house, bingo
13 parlor, casino or lottery; or

14 (d) a trustee, or manager of a unit trust.

15 (5) 'Covered property' means:

16 (a) any property held by a defendant;

17 (b) any property in which a defendant has an
18 interest; or

19 (c) any property held by a person to whom a
20 defendant has directly or indirectly made a gift caught
21 by this act.

22 (6) 'Currency' means the coin and paper money of
23 the Federated States of Micronesia or of a foreign
24 country that is designated as legal tender and which is
25 customarily used and accepted as a medium of exchange in
26 the country of issue.

1 (7) 'Defendant' means a person charged or about to
2 be charged with a serious offense, whether or not he or
3 she has been convicted of the offense, and includes, in
4 the case of proceedings for a restraining order under
5 section 957 of this title, a person who is about to be
6 charged with a serious offense.

7 (8) 'Document' means any material on which data is
8 recorded or marked and which is capable of being read or
9 understood by a person, computer system or other device,
10 and any record of information, and includes:

11 (a) anything on which there is writing;

12 (b) anything on which there are marks,
13 figures, symbols, or perforations having a meaning for
14 persons qualified to interpret them;

15 (c) anything from which sounds, images or
16 writings can be produced, with or without the aid of
17 anything else; or

18 (d) a map, plan, drawing, photograph or similar
19 thing.

20 (9) 'Financial institution' means any person or entity
21 which carries on a business of:

22 (a) acceptance of deposits and other repayable
23 funds from the public;

24 (b) lending, including consumer credit, mortgage
25 credit, factoring (with or without recourse) and
26 financing of commercial transactions;

- 1 (c) financial leasing;
- 2 (d) money transmission services;
- 3 (e) issuing and administering means of payment
4 (such as credit cards, travelers checks and bankers
5 drafts);
- 6 (f) guarantees and commitments;
- 7 (g) trading for their own account or for account
8 of customers in money market instruments (such as
9 checks, bills, certificates of deposit), foreign
10 exchange, financial futures and options, exchange and
11 interest rate instruments, and transferable securities;
- 12 (h) underwriting share issues and participation
13 in such issues;
- 14 (i) advice to undertakings on capital structure,
15 industrial strategy and related questions, and advice
16 and services relating to mergers and the purchase of
17 undertakings;
- 18 (j) money-brokering;
- 19 (k) portfolio management and advice;
- 20 (l) safekeeping and administration of securities;
- 21 (m) credit reference services; or
- 22 (n) safe custody services.
- 23 (10) 'Gift' includes any transfer of property by a
24 person to another person directly or indirectly:
- 25 (a) after the commission of a serious crime by
26 the first person;

1 (b) for a consideration the value of which is
2 significantly less than the value of the property
3 transferred; and

4 (c) to the extent of the difference between the
5 market value of the property transferred and the
6 consideration provided by the transferee.

7 (11) 'Interest', in relation to property, means:

8 (a) a legal or equitable estate or interest in
9 the property; or

10 (b) a right, power or privilege in connection
11 with the property.

12 (12) 'Money laundering' means:

13 (a) engaging, directly or indirectly, in a
14 transaction that involves property which is a proceeds
15 of crime;

16 (b) receiving, possessing, concealing,
17 disguising, transferring, converting, disposing of,
18 removing from or bringing into the country any property
19 which is a proceeds of crime;

20 (c) knowing, or having reasonable grounds for
21 suspecting that the property is derived or realized,
22 directly or indirectly, from some form of unlawful
23 activity;

24 (d) where the conduct is conduct of a natural
25 person, without reasonable excuse, failing to take
26 reasonable steps to ascertain whether or not the

1 property is derived or realized directly or indirectly,
2 from some form of unlawful activity; or

3 (e) where the conduct is a conduct of a financial
4 institution, failing to implement or apply procedures
5 and control to prevent or combat money laundering.

6 (13) 'Person' means any natural or legal person.

7 (14) 'Proceeding' or 'proceedings' means any procedure
8 conducted by or under the supervision of a judge or
9 judicial officer, however described, in relation to any
10 alleged or proven offense, or property derived from such
11 offense, and includes an inquiry, investigation, or
12 preliminary or final determination of facts.

13 (15) 'Proceeds of crime' means fruits of a crime, or
14 any property derived or realized directly or indirectly
15 from a serious offense and includes, on a proportional
16 basis, property into which any property derived or
17 realized directly from the offense was later
18 successively converted, transformed or intermingled, as
19 well as income, capital or other economic gains derived
20 or realized from such property at any time since the
21 offense.

22 (16) 'Property' means currency and all other real or
23 personal property of every description, whether situated
24 in the Federated States of Micronesia or elsewhere and
25 whether tangible or intangible, and includes an interest
26 in any such property.

1 (17) 'Property of or in the possession or control of
2 any person' includes any gift made by that person.

3 (18) 'Realizable', with respect to 'covered property'
4 as defined by subsection (6) of this section, means:

5 (a) capable of being acquired, obtained, taken,
6 seized, confiscated, or procured, and is either cash or
7 is capable of being liquidated and converted into cash;
8 or

9 (b) capable of being detected, located, found,
10 discovered, and converted into cash through payment of
11 the amount or value of the defendant's interest therein.

12 (19) 'Secretary' means and is synonymous with the
13 'Secretary of the Department of Justice' of the
14 Federated States of Micronesia, or with the chief law
15 enforcement officer of the Federated States of
16 Micronesia, whatever the title of such position is or in
17 the future becomes.

18 (20) 'Serious offense' means a violation of:

19 (a) any law of the Federated States of Micronesia
20 or any of its States or political subdivisions, which is
21 a criminal offense punishable by imprisonment for a term
22 of more than one year; or

23 (b) a law of a foreign state, in relation to acts
24 or omissions, which, had they occurred in the Federated
25 States of Micronesia or any of its States or political
26 subdivisions, would have constituted a criminal offense

1 punishable by imprisonment for a term of more than one
2 year;

3 (21) 'Supreme Court' means the Supreme Court of the
4 Federated States of Micronesia, and all its divisions,
5 wherever or whenever constituted.

6 (22) 'Tainted property' means:

7 (a) property used in, or in connection with, the
8 commission of a serious offense; or

9 (b) proceeds of crime, as defined in subsection
10 (16) of this section.

11 (23) 'Unit trust' means any arrangement made for the
12 purpose or having the effect of providing for a person
13 to have the funds available for investment; facilitates
14 for the participation by a person as a beneficiary under
15 a trust, or in any profits or income arising from the
16 acquisition, holding, management or disposal of any
17 property pursuant to the trust.

18 (24) A reference in this chapter to the law of:

19 (a) the Federated States of Micronesia;

20 (b) any State of the Federated States of
21 Micronesia; or

22 (c) any foreign state, includes a reference to a
23 written or unwritten law of, or in force in, any part of
24 the Federated States of Micronesia (including its States
25 and political subdivisions); any part of that State of
26 the Federated States of Micronesia, or any part of that

1 foreign state, as the case may be."

2 Section 89. Title 11 of the Code of the Federated States of
3 Micronesia, as amended, is hereby further amended by adding a new
4 section 904 of chapter 9 to read as follows:

5 "Section 904. Charge in relation to a serious offense.

6 Any reference in this act to a person being charged, or
7 about to be charged, with a serious offense is a
8 reference to a procedure, however described, in the
9 Federated States of Micronesia or elsewhere, by which
10 criminal proceedings may be commenced."

11 Section 90. Title 11 of the Code of the Federated States of
12 Micronesia, as amended, is hereby further amended by adding a new
13 section 905 of chapter 9 to read as follows:

14 "Section 905. Conviction in relation to a serious
15 offense.

16 (1) For the purposes of this chapter, a person shall
17 be taken to be convicted of a serious offense if:

18 (a) the person is convicted, whether upon a plea
19 of guilty or no contest, or after trial, of the offense;

20 (b) the person is charged with, and found guilty
21 of the offense but is discharged without any conviction
22 being recorded; and

23 (c) the Supreme Court, with the consent of the
24 convicted person, takes the offense, of which the person
25 has not been found guilty, into account in passing
26 sentence on the person for another serious offense.

1 (2) For the purposes of subsection (1) of this
2 section, judgment or sentence need not have been
3 imposed."

4 Section 91. Title 11 of the Code of the Federated States of
5 Micronesia, as amended, is hereby further amended by adding a new
6 section 906 of chapter 9 to read as follows:

7 "Section 906. Quashing of convictions. For the
8 purposes of this chapter, a person's conviction for a
9 serious offense shall be taken to be quashed in any
10 case:

11 (1) where section 905(1)(a) of this title applies, if
12 the conviction is reversed or set aside;

13 (2) where section 905(1)(b) of this title applies, if
14 the finding of guilt is reversed or set aside; or

15 (3) where section 905(1)(c) of this title applies, if
16 either:

17 (a) the person's conviction for the other offense
18 referred to in that section is reversed or set aside; or

19 (b) the decision of Supreme Court to take the
20 offense into account in passing sentence for the other
21 offense is reversed or set aside."

22 Section 92. Title 11 of the Code of the Federated States of
23 Micronesia, as amended, is hereby further amended by adding a new
24 section 907 of chapter 9 to read as follows:

25 "Section 907. Value of property.

26 (1) Subject to subsections (2) and (3) of this

1 section, for the purposes of this chapter the value of
2 property (other than cash) in relation to any person
3 holding the property is:

4 (a) its market value; or

5 (b) where an innocent third party holds an
6 interest in the property:

7 (i) the market value of property, less the
8 interest of the innocent third party; and

9 (ii) less the amount required to discharge
10 any valid liens or encumbrances.

11 (2) References in this chapter to the value of a gift,
12 or the value of any payment or reward, means the value
13 of the gift, payment or reward to the recipient when it
14 was received, adjusted to account for any subsequent
15 changes in the value of money."

16 Section 93. Title 11 of the Code of the Federated States of
17 Micronesia, as amended, is hereby further amended by adding a new
18 section 908 of chapter 9 to read as follows:

19 "Section 908. Dealing with property. For the purposes
20 of this act, dealing with property held by any person
21 includes, without prejudice to the generality of the
22 expression:

23 (1) where the property is a debt owed to that person,
24 making a payment to any person in reduction or full
25 settlement of the amount of the debt;

26 (2) making or receiving a gift of the property; or

1 (3) removing the property from the Federated States of
2 Micronesia."

3 Section 94. Title 11 of the Code of the Federated States of
4 Micronesia, as amended, is hereby further amended by adding a new
5 section 909 of chapter 9 to read as follows:

6 "Section 909. Gift caught by this act.

7 (1) A gift, including a gift made before the effective
8 date of this act, is caught by this act where:

9 (a) it was made by a defendant charged with or
10 convicted of a serious offense, at any time after the
11 commission of the offense to which the proceedings
12 relate (or where more than one offense was committed, at
13 any time after commission of the earliest of the
14 offenses to which the proceedings relate); and, the
15 Supreme Court considers it appropriate, after
16 consideration of all of the relevant circumstances, to
17 take the gift into account; or where

18 (b) it was made by a defendant charged with or
19 convicted of a serious offense and was a gift of
20 property:

21 (i) received by the defendant in connection
22 with the commission of a serious offense committed by
23 the defendant or by another person; or

24 (ii) which (in whole or in part, directly or
25 indirectly) represented (when in the defendant's hands)
26 property received by the defendant in connection with

1 the commission of a serious offense by the defendant or
2 another person.

3 (2) For purposes of this act:

4 (a) the circumstances in which a defendant must
5 be treated as making a gift include those where the
6 defendant transfers property to another person, directly
7 or indirectly, for a consideration, the value of which
8 is significantly less than the value of the property
9 transferred by the defendant; and

10 (b) in those circumstances, the court shall apply
11 the provisions of section 907 of this title, taking into
12 account the difference between the value of the gift and
13 the consideration, if any, provided to the defendant by
14 the recipient."

15 Section 95. Title 11 of the Code of the Federated States of
16 Micronesia, as amended, is hereby further amended by adding a new
17 section 910 of chapter 9 to read as follows:

18 "Section 910. Deriving a benefit. A reference to a
19 benefit derived or obtained by or otherwise accruing to
20 a person, includes a reference to a benefit derived, or
21 obtained by, or accruing to, a third party at the first
22 person's request or direction."

23 Section 96. Title 11 of the Code of the Federated States of
24 Micronesia, as amended, is hereby further amended by adding a new
25 section 911 of chapter 9 to read as follows:

26 "Section 911. Benefiting from the proceeds of a serious

1 offense. For the purposes of this act:

2 (1) A person has benefited from an offense if that
3 person has at any time (whether before or after the
4 commencement of this act) received any payment or other
5 reward in connection with, or derived any pecuniary
6 advantage from, the commission of a serious offense,
7 whether committed by that person or someone else.

8 (2) a person's proceeds of a serious offense (whether
9 received or derived before or after the commencement of
10 this act) are:

11 (a) any payments or other rewards received by the
12 person at any time in connection with the offense;
13 and/or

14 (b) any pecuniary advantage derived by the person
15 at any time from the commission of an offense.

16 (3) The value of a person's proceeds of a serious
17 offense is the aggregate of the values of all payments,
18 rewards or pecuniary advantages received by that person
19 in connection with, or derived by the person from, the
20 commission of the offense."

21 Section 97. Title 11 of the Code of the Federated States of
22 Micronesia, as amended, is hereby further amended by enacting a
23 new subchapter II of chapter 9 entitled "Money Laundering".

24 Section 98. Title 11 of the Code of the Federated States of
25 Micronesia, as amended, is hereby further amended by adding a new
26 section 912 of chapter 9 to read as follows:

1 "Section 912. Department of Justice to have authority
2 over money laundering offenses. The Federated States of
3 Micronesia Department of Justice shall have primary
4 enforcement authority with respect to the provisions of
5 this chapter, and:

6 (1) shall receive and investigate reports of
7 suspicious transactions issued by financial institutions
8 and cash dealers pursuant to section 915(1) of this
9 title;

10 (2) may enter the premises of any financial
11 institution or cash dealer during ordinary business
12 hours to inspect any records kept, pursuant to section
13 914(1) of this title, and ask any question relating to
14 such records, make notes and take copies of the whole or
15 any part of the records;

16 (3) may instruct any financial institution or cash
17 dealer to take such steps as may be appropriate to
18 facilitate any investigation;

19 (4) may compile statistics and records, disseminate
20 information within the Federated States of Micronesia or
21 elsewhere, make recommendations arising out of any
22 information received, promulgate regulations to be
23 followed by financial institutions and cash dealers, and
24 advise the President;

25 (5) may provide lists of training facilities for any
26 financial institution in respect of transaction record-

1 keeping and reporting obligations provided for in
2 sections 914(1) and 915(1) of this title;

3 (6) may consult with any relevant person, institution
4 or organization for the purpose of exercising its powers
5 or duties; and

6 (7) may enter into joint law agreements with the
7 States of the Federated States of Micronesia with
8 respect to the enforcement and implementation of the
9 provisions of this chapter, as deemed appropriate."

10 Section 99. Title 11 of the Code of the Federated States of
11 Micronesia, as amended, is hereby further amended by adding a new
12 section 913 of chapter 9 to read as follows:

13 "Section 913. Financial institutions and cash dealers
14 to verify customers identity.

15 (1) A financial institution or cash dealer shall take
16 reasonable measures to satisfy itself as to the true
17 identity of any applicant seeking to enter into a
18 business relationship with it, or to carry out a
19 transaction or series of transactions with it, by
20 requiring the applicant to produce an official record
21 reasonably capable of establishing the true identity of
22 the applicant, such as a birth certificate, passport or
23 other official means of identification, and in the case
24 of a corporation, a certificate of incorporation
25 together with its latest tax return filed with the
26 Government of the Federated States of Micronesia.

1 (2) Where an applicant requests a financial
2 institution or cash dealer to enter into a continuing
3 business relationship, or in the absence of such a
4 relationship, any transaction, then the institution or
5 cash dealer shall take reasonable measures to establish
6 whether the person is acting on behalf of another
7 person.

8 (3) If it appears to a financial institution or cash
9 dealer that an applicant requesting to enter into any
10 transaction, whether or not in the course of a
11 continuing business relationship, is acting on behalf of
12 another person, then the institution or cash dealer
13 shall take reasonable measures to establish the true
14 identity of any person on whose behalf, or for whose
15 ultimate benefit, the applicant may be acting in the
16 proposed transaction, whether as trustee, nominee, agent
17 or otherwise.

18 (4) In determining what constitutes reasonable
19 measures, for the purposes of subsections (1) or (3) of
20 this section, regard shall be given to all circumstances
21 of the case, and in particular:

22 (a) to whether the applicant is based or
23 incorporated in a country in which applicable provisions
24 are in force to prevent the use of the financial system
25 for the purpose of money laundering; and

26 (b) to custom and practice, as may from time to

1 time be current, in the relevant field of business.

2 (5) Nothing in this section shall require the
3 production of any evidence of identity where:

4 (a) the applicant is itself a financial
5 institution or a cash dealer to which this act applies;
6 or

7 (b) there is a transaction or a series of
8 transactions taking place in the course of a business
9 relationship, in respect of which the applicant has
10 already produced satisfactory evidence of identity."

11 Section 100. Title 11 of the Code of the Federated States of
12 Micronesia, as amended, is hereby further amended by adding a new
13 section 914 of chapter 9 to read as follows:

14 "Section 914. Financial institutions and cash dealers
15 to establish and maintain customer records.

16 (1) A financial institution or cash dealer shall
17 establish and maintain:

18 (a) records of all transactions exceeding
19 \$10,000, or its equivalent in foreign currency, carried
20 out by it, in accordance with the requirements of
21 subsection (3) of this section; and

22 (b) where evidence of a person's identity is
23 obtained in accordance with section 913 of this title, a
24 record that indicates the nature of the evidence
25 obtained, and which comprises either a copy of the
26 evidence or such information as would enable a copy of

1 it to be obtained.

2 (2) Customer accounts of a financial institution or
3 cash dealer shall be kept in the true name of the
4 account holder.

5 (3) Records required under subsection (1)(a) of this
6 section shall contain particulars sufficient to identify
7 the:

8 (a) name, address and occupation (or where
9 appropriate, business or principal activity) of each
10 person conducting the transaction, or if known, on whose
11 behalf the transaction is being conducted, as well as
12 the method used by the financial institution or cash
13 dealer to verify the identity of each such person;

14 (b) nature and date of the transaction;

15 (c) type and amount of currency involved;

16 (d) the type and identifying number of any
17 account with the financial institution or cash dealer
18 involved in the transaction;

19 (e) if the transaction involves a negotiable
20 instrument other than currency, the name of the drawer
21 of the instrument, the name of the institution on which
22 it was drawn, the name of the payee (if any), the amount
23 and date of the instrument, the number (if any) of the
24 instrument and details of any endorsements appearing on
25 the instrument; and

26 (f) the name and address of the financial

1 institution or cash dealer, and of the officer, employee
2 or agent of the financial institution or cash dealer who
3 prepared the report.

4 (4) Records required under subsection (1) of this
5 section shall be kept by the financial institution for a
6 period of at least five (5) years from the date the
7 relevant business or transaction was completed."

8 Section 101. Title 11 of the Code of the Federated States of
9 Micronesia, as amended, is hereby further amended by adding a new
10 section 915 of chapter 9 to read as follows:

11 "Section 915. Financial institutions and cash dealers
12 to report suspicious transactions.

13 (1) Whenever a financial institution or cash dealer is
14 a party to a transaction and has reasonable grounds to
15 suspect that the information it has concerning the
16 transaction may be relevant to an investigation or
17 prosecution of a person for a serious offense, it shall
18 as soon as possible, but no later than three (3) working
19 days after forming that suspicion, and wherever possible
20 before the transaction is carried out:

21 (a) take reasonable measures to ascertain the
22 purpose of the transaction, the origin and ultimate
23 destination of the funds involved, and the identity and
24 address of any ultimate beneficiary;

25 (b) prepare a report of the transaction in
26 accordance with subsection (2) of this section; and

1 (c) communicate the information contained therein
2 to the Department of Justice in writing.

3 (2) A report required by subsection (1) of this
4 section shall:

5 (a) contain particulars of the matters specified
6 in subsection (1)(a) of this section, and in section
7 913(1) of this title;

8 (b) contain a statement of the grounds on which
9 the financial institution or cash dealer holds the
10 suspicion; and

11 (c) be signed or otherwise authenticated by the
12 financial institution or cash dealer.

13 (3) A financial institution or a cash dealer which has
14 reported a suspicious transaction in accordance with
15 this subchapter shall, if requested to do so by the
16 Department of Justice, give such further information as
17 it has in relation to the transaction."

18 Section 102. Title 11 of the Code of the Federated States of
19 Micronesia, as amended, is hereby further amended by adding a new
20 section 916 of chapter 9 to read as follows:

21 "Section 916. Financial institutions and cash dealers
22 to establish and maintain internal reporting procedures.

23 A financial institution or cash dealer shall establish
24 and maintain internal reporting procedures to:

25 (1) identify persons to whom an employee is to report
26 any information which comes to the employee's attention

1 in the course of employment, and which gives rise to
2 knowledge or suspicion by the employee that another
3 person is engaged in money laundering, and enables any
4 person so identified to have reasonable access to any
5 information relevant to determine if a sufficient basis
6 exists to report the matter pursuant to section 915(1)
7 of this title; and

8 (2) require the identified person to report the matter
9 pursuant to section 915(1) of this title, in the event
10 that he or she determines that sufficient basis exists."

11 Section 103. Title 11 of the Code of the Federated States of
12 Micronesia, as amended, is hereby further amended by adding a new
13 section 917 of chapter 9 to read as follows:

14 "Section 917. Further preventive measures by financial
15 institutions and cash dealers. A financial institution
16 or cash dealer shall establish and maintain internal
17 reporting procedures to:

18 (1) take appropriate measures for the purpose of
19 making employees aware of domestic laws relating to
20 money laundering, and the procedures and related
21 policies established and maintained by it pursuant to
22 this act;

23 (2) provide its employees with appropriate training in
24 the recognition and handling of money laundering
25 transactions."

26 Section 104. Title 11 of the Code of the Federated States of

1 Micronesia, as amended, is hereby further amended by adding a new
2 section 918 of chapter 9 to read as follows:

3 "Section 918. Money laundering offenses.

4 (1) A person commits the offense of money laundering
5 if the person:

6 (a) acquires, possesses or uses property,
7 knowing, or having reason to believe, that it is derived
8 directly or indirectly from acts or omissions that would
9 constitute a serious offense;

10 (b) renders assistance to another person for:

11 (i) the conversion or transfer of property
12 derived directly or indirectly from the acts or
13 omissions referred to in subsection (1)(a) of this
14 section, with the intention of concealing or disguising
15 the illicit origin of that property, or of aiding any
16 person involved in the commission of the offense to
17 evade the legal consequences thereof; or

18 (ii) concealing or disguising the true
19 nature, origin, location, disposition, movement or
20 ownership of the property derived directly or indirectly
21 from the acts or omissions referred to in subsection
22 (1)(a) of this section.

23 (2) The offense of money laundering, established
24 under subsection (1) of this section, is a felony
25 offense, punishable by imprisonment for a maximum term
26 of ten years or a maximum fine of \$100,000, or both;

1 PROVIDED, however, in the case of a corporation,
2 company, commercial enterprise, commercial entity or
3 other legal person, the maximum fine shall be increased
4 to \$500,000."

5 Section 105. Title 11 of the Code of the Federated States of
6 Micronesia, as amended, is hereby further amended by adding a new
7 section 919 of chapter 9 to read as follows:

8 "Section 919. Related offenses.

9 (1) A person who knowingly opens or operates an
10 account with a financial institution or a cash dealer
11 under a false name commits a felony offense, punishable
12 by imprisonment for a maximum of five years or a maximum
13 fine of \$50,000, or both; PROVIDED, however, in the case
14 of a corporation, company, commercial enterprise,
15 commercial entity or other legal person, the maximum
16 fine shall be increased to \$250,000.

17 (2) A financial institution or cash dealer who fails
18 to comply with any requirement of this subchapter for
19 which no penalty is specified commits a felony offense,
20 punishable by imprisonment for a maximum of five (5)
21 years or a maximum fine of \$50,000, or both; PROVIDED,
22 however, in the case of a corporation, company,
23 commercial enterprise, commercial entity or other legal
24 person that is not also a natural person, the maximum
25 fine shall be increased to \$250,000.

26 (3) In determining whether a person, or a financial

1 institution or cash dealer has complied with or failed
2 to comply with any requirement of this subchapter, the
3 Supreme Court shall have regard to all the circumstances
4 of the case, including such custom and practice as may,
5 from time to time, be current in the relevant trade,
6 business profession or employment, and may take into
7 account any relevant regulations adopted and/or approved
8 by a public authority, exercising public interest
9 supervisory functions in relation to the financial
10 institution or cash dealer, or any other body that
11 regulates or is representative of any trade, business,
12 profession or employment carried on by that person.

13 (4) Any person who knows or suspects that a report
14 under section 915(1) of this title is being prepared or
15 has been sent to the Department of Justice and discloses
16 to another person information or other matters which are
17 likely to prejudice any investigation of an offense, or
18 possible offense of money laundering under section 918
19 of this title, commits a felony offense; such offense is
20 punishable by imprisonment for a maximum of five (5)
21 years or a maximum fine of \$50,000, or both; PROVIDED,
22 however, in the case of a corporation, company,
23 commercial enterprise, commercial entity or other legal
24 person, the maximum fine shall be increased to \$250,000.

25 (5) In proceedings for an offense against subsection
26 (4) of this section, it is an affirmative defense that

1 the person did not know, or have reasonable grounds to
2 suspect, that the disclosure was likely to prejudice any
3 investigation of an offense or possible offense of money
4 laundering under section 918 of this title."

5 Section 106. Title 11 of the Code of the Federated States of
6 Micronesia, as amended, is hereby further amended by adding a new
7 section 920 of chapter 9 to read as follows:

8 "Section 920. Seizure and detention of suspicious
9 imports or exports of currency.

10 (1) An authorized officer may seize and, in accordance
11 with this section, detain any currency which is being
12 imported into or exported from the Federated States of
13 Micronesia if the authorized officer has probable cause
14 to believe that it was derived from a serious offense,
15 or is intended by any person for use in the commission
16 of a serious offense.

17 (2) Currency detained under subsection (1) of this
18 section shall not be detained for more than twenty-four
19 (24) hours after seizure, unless a justice of the
20 Supreme Court grants an order of continued detention for
21 a period not exceeding three (3) months from the date of
22 seizure, upon being satisfied that:

23 (a) there is probable cause to believe that it
24 was derived from a serious offense or is intended by any
25 person for use in the commission of a serious offense;
26 and

1 (b) its continued detention is justified while:

2 (i) its origin or derivation is further
3 investigated; or

4 (ii) consideration is given to the
5 institution in the Federated States of Micronesia or
6 elsewhere of criminal proceedings against any person for
7 an offense with which the currency is connected;
8 PROVIDED, however, upon request by the person from whom
9 the currency was seized and detained, the court shall
10 grant a hearing before entering an order of continued
11 detention.

12 (3) A justice of the Supreme Court may subsequently
13 order, after hearing, with notice to all parties
14 concerned, the continued detention of the currency if
15 satisfied of the matters mentioned in subsection (2) of
16 this section, but the total period of detention shall
17 not exceed two (2) years from the date of the order.

18 (4) Subject to subsection (5) of this section,
19 currency detained under this section may be released in
20 whole or in part to the person on whose behalf it was
21 imported or exported:

22 (a) by order of a justice of the Supreme Court
23 that its continued detention is no longer justified,
24 upon application by or on behalf of that person and
25 after considering any views of the Secretary to the
26 contrary; or

1 (b) by an authorized officer, if satisfied that
2 its continued detention is no longer justified.

3 (5) No currency detained under this section shall be
4 released where:

5 (a) an application is made under subchapter III
6 of this chapter for the purpose of:

7 (i) the confiscation of the whole or any
8 part of the currency; or

9 (ii) its restraint pending determination of
10 its liability to confiscation; or

11 (b) proceedings are instituted in the Federated
12 States of Micronesia or elsewhere against any person for
13 an offense with which the currency is connected, unless
14 and until the proceedings relating to the relevant
15 application or the proceedings for the offense as the
16 case may be have been concluded."

17 Section 107. Title 11 of the Code of the Federated States of
18 Micronesia, as amended, is hereby further amended by adding a new
19 section 921 of chapter 9 to read as follows:

20 "Section 921. Power to obtain search warrant.

21 (1) The Department of Justice may apply to the Supreme
22 Court for a warrant, under this section or title 12 of
23 the Code of the Federated States of Micronesia, to enter
24 any premises belonging to or in the possession or
25 control of a financial institution, cash dealer, or any
26 officer or employee thereof, and to search the premises

1 and remove any document, material or other thing therein
2 for the purposes of the Department of Justice as ordered
3 by the Supreme Court and specified in the warrant.

4 (2) The Supreme Court shall grant an application for a
5 search warrant made pursuant to this act if it is
6 satisfied that there is probable cause to believe that:

7 (a) the financial institution or cash dealer has
8 failed to keep a transaction record, or report a
9 suspicious transaction, as required by this act; or

10 (b) an officer or employee of a financial
11 institution or cash dealer is committing, has committed
12 or is about to commit an offense of money laundering or
13 other violation of this act."

14 Section 108. Title 11 of the Code of the Federated States of
15 Micronesia, as amended, is hereby further amended by adding a new
16 section 922 of chapter 9 to read as follows:

17 "Section 922. Property tracking and monitoring orders.

18 For the purpose of determining whether any property
19 belongs to, or is in the possession or under the control
20 of any person, the Department of Justice may, upon
21 application to the Supreme Court, obtain an order:

22 (1) that any document relevant to:

23 (a) identifying, locating or quantifying any such
24 property; or

25 (b) identifying or locating any document
26 necessary for the transfer of any such property,

1 belonging to, or in the possession or control of that
 2 person be delivered forthwith to the Department of
 3 Justice;

4 (2) that the financial institution or cash dealer
 5 forthwith produce to the Department of Justice all
 6 information obtained about any transaction conducted by
 7 or for that person during such period before or after
 8 the order as the Supreme Court directs."

9 Section 109. Title 11 of the Code of the Federated States of
 10 Micronesia, as amended, is hereby further amended by adding a new
 11 section 923 of chapter 9 to read as follows:

12 "Section 923. Orders to enforce compliance with
 13 obligations under this subchapter.

14 (1) The Department of Justice may, upon application to
 15 the Supreme Court, after satisfying the Court by a
 16 preponderance of the evidence, that a financial
 17 institution or cash dealer has failed to comply with any
 18 obligation provided for under sections 913, 914, 915,
 19 916, or 917 of this title, obtain an order against all
 20 or any officers or employees of the institution or
 21 dealer in such terms as the Supreme Court deems
 22 necessary, in order to enforce compliance with such
 23 obligation.

24 (2) In granting the order pursuant to subsection (1)
 25 of this section, the Supreme Court may order that should
 26 the financial institution or cash dealer fail, without

1 reasonable excuse, to comply with all or any provisions
2 of the order, such institution, dealer, officer or
3 employee shall pay a financial penalty in the sum and in
4 the manner directed by the Supreme Court.

5 (3) Nothing in this section shall preclude the
6 Department of Justice from instituting criminal charges
7 and seeking other orders, warrants, remedies or
8 penalties; and notwithstanding any other penalty which
9 may be imposed under this act, the Department of Justice
10 may apply for an order directing compliance with any
11 requirement of this act or regulations."

12 Section 110. Title 11 of the Code of the Federated States of
13 Micronesia, as amended, is hereby further amended by adding a new
14 section 924 of chapter 9 to read as follows:

15 "Section 924. Secrecy and confidentiality obligations
16 overridden. The provisions of this act shall have
17 effect notwithstanding any obligation as to secrecy,
18 confidentiality, or other restriction on the disclosure
19 of information imposed by law and regulations, including
20 the policies, practices and regulations of any financial
21 institution, cash dealer or other commercial entity or
22 person, with respect to secrecy and confidentiality of
23 banking matters, in the Federated States of Micronesia."

24 Section 111. Title 11 of the Code of the Federated States of
25 Micronesia, as amended, is hereby further amended by adding a new
26 section 925 of chapter 9 to read as follows:

1 "Section 925. Immunity where suspicious transaction
2 reported. No action, suit or other proceedings shall
3 lie against any financial institution or cash dealer, or
4 any officer, employee or other representative of the
5 institution acting in the ordinary course of the
6 person's employment or representation, in relation to
7 any action taken in good faith by that institution or
8 person pursuant to section 915(1) of this title."

9 Section 112. Title 11 of the Code of the Federated States of
10 Micronesia, as amended, is hereby further amended by adding a new
11 section 926 of chapter 9 to read as follows:

12 "Section 926. Immunity where official powers or
13 functions exercised in good faith. No suit, prosecution
14 or other legal proceedings shall lie against the
15 Government of the Federated States of Micronesia, or any
16 officer or other person in respect of anything done by
17 or on behalf of that person, with due diligence and in
18 good faith, in the exercise of any power or the
19 performance of any function under this act or any
20 regulation or order made pursuant to this act."

21 Section 113. Title 11 of the Code of the Federated States of
22 Micronesia, as amended, is hereby further amended by adding a new
23 section 927 of chapter 9 to read as follows:

24 "Section 927. Restitution of restrained property.
25 Where an investigation has begun against a person for a
26 serious offense, or property was restrained under this

1 act in relation to that offense, and any of the
2 following occurs:

3 (1) the person is not charged in the Federated States
4 of Micronesia with the serious offense;

5 (2) the person is charged with a serious offense in
6 the Federated States of Micronesia, but not convicted of
7 that offense; or

8 (3) a conviction for that serious offense in the
9 Federated States of Micronesia is quashed or reversed
10 and no subsequent complaint is filed within a reasonable
11 time thereafter, the Supreme Court shall order
12 restitution of the restrained property together with the
13 interest, if any, which has actually accrued, if such
14 property is held in a financial institution."

15 Section 114. Title 11 of the Code of the Federated States of
16 Micronesia, as amended, is hereby further amended by adding a new
17 section 928 of chapter 9 to read as follows:

18 "Section 928. Damages. Nothing in this act affects the
19 right of a person, whose property has been restrained,
20 to seek redress for due process or civil rights
21 violations pursuant to the laws of the Federated States
22 of Micronesia."

23 Section 115. Title 11 of the Code of the Federated States of
24 Micronesia, as amended, is hereby further amended by enacting a
25 new subchapter III of chapter 9 entitled "Confiscation".

26 Section 116. Title 11 of the Code of the Federated States of

1 Micronesia, as amended, is hereby further amended by enacting a
2 new part 1 of subchapter III of chapter 9 entitled "Application
3 for Confiscation and Pecuniary Penalty Orders".

4 Section 117. Title 11 of the Code of the Federated States of
5 Micronesia, as amended, is hereby further amended by adding a new
6 section 929 of chapter 9 to read as follows:

7 "Section 929. Application for confiscation order or
8 pecuniary penalty order.

9 (1) Where a defendant is convicted of a serious
10 offense, the Secretary may apply to the Supreme Court
11 for one or both of the following orders:

12 (a) a confiscation order against property that is
13 tainted property in respect of the offense; or

14 (b) a pecuniary penalty order against the
15 defendant in respect of benefits derived by the
16 defendant from the commission of the offense; PROVIDED,
17 however, such application must be made within one (1)
18 year of the date the defendant was convicted for the
19 serious offense.

20 (2) An application under subsection (1) of this
21 section may be made in respect of one or more than one
22 offense.

23 (3) Where an application under this section is finally
24 determined, no further application for a confiscation
25 order or a pecuniary penalty order may be made in
26 respect of the offense for which the defendant was

1 convicted without the leave of the Supreme Court. The
2 Supreme Court shall not give such leave unless it is
3 satisfied that:

4 (a) the property or benefit to which the new
5 application relates, accrued or was identified after the
6 previous application was determined;

7 (b) necessary evidence became available after the
8 previous application was determined and could not
9 reasonably have been discovered before such
10 determination; or

11 (c) it is in the interest of justice that the new
12 application be made."

13 Section 118. Title 11 of the Code of the Federated States of
14 Micronesia, as amended, is hereby further amended by adding a new
15 section 930 of chapter 9 to read as follows:

16 "Section 930. Notice of application.

17 (1) Where the Secretary applies for a confiscation
18 order against property in respect of the defendant's
19 conviction of a serious offense:

20 (a) the Secretary must give no less than fourteen
21 (14) days written notice of the application to the
22 defendant and to any other person who the Secretary has
23 reason to believe may have an interest in the property;

24 (b) the defendant and any other person who claims
25 an interest in the property may appear and adduce
26 evidence at the hearing of the application; and

1 (c) the Supreme Court may, at any time before the
2 final determination of the application, direct the
3 Secretary to:

4 (i) give notice of the application to any
5 person who, in the opinion of the Supreme Court, appears
6 to have an interest in the property; and

7 (ii) announce on public radio, post a notice
8 at the main Post Office and all branch offices, and at
9 the National Government headquarters in Palikir, and
10 publish in a newspaper published and circulating in the
11 Federated States of Micronesia, a notice of the
12 application.

13 (2) Where the Secretary applies for a pecuniary
14 penalty order against a defendant:

15 (a) the Secretary shall give the defendant no
16 less than fourteen (14) days notice of the application;
17 and

18 (b) the defendant may appear and adduce evidence
19 at the hearing of the application."

20 Section 119. Title 11 of the Code of the Federated States of
21 Micronesia, as amended, is hereby further amended by adding a new
22 section 931 of chapter 9 to read as follows:

23 "Section 931. Amendment of application.

24 (1) The Supreme Court, upon hearing the application
25 under section 929(1) of this title, may, before the
26 final determination of the application, and on the

1 application of the Secretary, amend the application to
2 include any other property or benefit, as the case may
3 be, upon being satisfied that:

4 (a) the property or benefit was not reasonably
5 capable of identification when the application was made;
6 or

7 (b) necessary evidence became available only
8 after the application was originally made.

9 (2) Where the Secretary applies to amend an
10 application for a confiscation order and the amendment
11 would have the effect of including additional property
12 in the application for confiscation, the Secretary must
13 give no less than fourteen (14) days written notice of
14 the application to amend, to any person who the
15 Secretary has a reason to believe may have an interest
16 in the property to be included in the application for a
17 confiscation order.

18 (3) Any person who claims an interest in the property
19 to be included in the application of a confiscation
20 order may appear and adduce evidence at the hearing of
21 the application to amend.

22 (4) Where the Secretary applies to amend an
23 application for a pecuniary penalty order against a
24 defendant and the effect of the amendment would be to
25 include an additional benefit in the application, the
26 Secretary must give the defendant no less than fourteen

1 (14) days written notice of the application to amend."

2 Section 120. Title 11 of the Code of the Federated States of
3 Micronesia, as amended, is hereby further amended by adding a new
4 section 932 of chapter 9 to read as follows:

5 "Section 932. Procedure on application.

6 (1) Where an application is made to the Supreme Court
7 for a confiscation order or a pecuniary penalty order in
8 respect of a defendant's conviction of a serious
9 offense, the Supreme Court may, in determining the
10 application, have regard to the transcript of any
11 proceedings against the defendant for the offense.

12 (2) Where an application is made for a confiscation
13 order or a pecuniary penalty order to the Supreme Court
14 before which the defendant was convicted, and the
15 Supreme Court has not, when the application is made,
16 passed sentence on the defendant for the offense, the
17 Supreme Court may, if it is satisfied that it is
18 reasonable to do so in all circumstances, defer passing
19 sentence until it has determined the application for the
20 order."

21 Section 121. Title 11 of the Code of the Federated States of
22 Micronesia, as amended, is hereby further amended by enacting a
23 new part 2 of subchapter III of chapter 9 entitled "Confiscation
24 Orders".

25 Section 122. Title 11 of the Code of the Federated States of
26 Micronesia, as amended, is hereby further amended by adding a new

1 section 933 of chapter 9 to read as follows:

2 "Section 933. Procedure for in rem confiscation order
3 where a person dies or absconds.

4 (1) Where an information or a complaint has been filed
5 alleging the commission of a serious offense by a person
6 and a warrant for the arrest of the person has been
7 issued in relation to that information or complaint, the
8 Secretary may apply to the Supreme Court for a
9 confiscation order in respect of any tainted property if
10 the defendant has died or absconded.

11 (2) For the purposes of subsection (1) of this section
12 and section 934 of this title, the person is deemed to
13 have absconded if reasonable attempts to arrest the
14 person pursuant to the warrant have been unsuccessful
15 during a period of six (6) months commencing on the day
16 the warrant was issued, and the person shall be deemed
17 to have so absconded on the last day of that period.

18 (3) Where the Secretary applies under this section for
19 a confiscation order against any tainted property, the
20 Supreme Court shall, before hearing the application:

21 (a) require notice of the application to be given
22 to any person who, in the opinion of the Supreme Court,
23 appears to have an interest in the property; and

24 (b) direct that notice of the application be
25 announced on public radio, posted at the main Post
26 Office and all branch offices, and at the National

1 Government headquarters in Palikir, and published in a
2 newspaper published and circulating in the Federated
3 States of Micronesia, containing such particulars and
4 for so long as the Supreme Court may require."

5 Section 123. Title 11 of the Code of the Federated States of
6 Micronesia, as amended, is hereby further amended by adding a new
7 section 934 of chapter 9 to read as follows:

8 "Section 934. Confiscation where a person dies or
9 absconds.

10 (1) Subject to section 933(3) of this title, where an
11 application is made to the Supreme Court under section
12 933(1) of this title, for a confiscation order against
13 any tainted property by reason of a person having died,
14 or absconded in connection with a serious offense, and
15 the Court is satisfied that:

16 (a) any property is tainted property in respect
17 of the offense;

18 (b) proceedings in respect of a serious offense
19 committed in relation to that property were commenced;
20 and

21 (c) the accused charged with the offense referred
22 to in subsection (1)(b) of this section has died or
23 absconded, the Supreme Court may order that the property
24 or such property as is specified by the Supreme Court in
25 the order be confiscated.

26 (2) The provisions of section 933(2), 935, 936, 937

1 and 938 shall apply with such modifications as are
2 necessary to give effect to this section."

3 Section 124. Title 11 of the Code of the Federated States of
4 Micronesia, as amended, is hereby further amended by adding a new
5 section 935 of chapter 9 to read as follows:

6 "Section 935. Confiscation order on conviction.

7 (1) Where, upon application by the Secretary, the
8 Supreme Court is satisfied that property is tainted
9 property in respect of a serious offense of which a
10 person has been convicted, the Supreme Court may order
11 that specified property be confiscated.

12 (2) In determining whether property is tainted
13 property, the Supreme Court may presume, in the absence
14 of evidence to the contrary:

15 (a) that the property was used in or in
16 connection with, the commission of the offense if it was
17 in the person's possession at the time of, or
18 immediately after, the commission of the offense for
19 which the person was convicted;

20 (b) that the property was derived, obtained or
21 realized as a result of the commission of the offense if
22 it was acquired by the person before, during or within a
23 reasonable time after the period of the commission of
24 the offense of which the person was convicted, and the
25 Supreme Court is satisfied that the income of that
26 person, from sources unrelated to criminal activity of

1 that person, cannot reasonably account for the
2 acquisition of that property.

3 (3) Where the Supreme Court orders that property,
4 other than money, be confiscated, the Supreme Court
5 shall specify in the order the amount that it considers
6 to be the value of the property at the time when the
7 order is made, taking account of how such value is to be
8 determined under section 907 of this act.

9 (4) In considering whether a confiscation order should
10 be made under subsection (1) of this section the Supreme
11 Court shall have regard to:

12 (a) the rights and interests, if any, of innocent
13 third parties in the property;

14 (b) the gravity of the offense concerned;

15 (c) any hardship that may reasonably be expected
16 to be caused to any innocent person by the operation of
17 the order; and

18 (d) the use that is ordinarily made of the
19 property, or the use to which the property was intended
20 to be put.

21 (5) Where the Supreme Court makes a confiscation
22 order, the Supreme Court may give such directions as are
23 necessary or convenient for giving effect to the order."

24 Section 125. Title 11 of the Code of the Federated States of
25 Micronesia, as amended, is hereby further amended by adding a new
26 section 936 of chapter 9 to read as follows:

1 "Section 936. Effect of confiscation order.

2 (1) Subject to subsection (2) of this section, where a
3 Court makes a confiscation order against any property,
4 the property vests absolutely in the Federated States of
5 Micronesia by virtue of the order, except with respect
6 to real property, where any legislation then in force in
7 any State of the Federated States of Micronesia
8 prohibits the Federated States of Micronesia from taking
9 title to such real property, in which case a lien shall
10 be immediately attached to the property in favor of the
11 Federated States of Micronesia, in the amount of the
12 value of the property less any prior recorded
13 encumbrances. In the case of such real property, the
14 Secretary shall be authorized to make application to the
15 Supreme Court, and the Supreme Court may grant an order
16 forcing the sale of such property (unless the sale of
17 such property is prohibited by legislation then in force
18 in the State), with proceeds to be paid to the Federated
19 States of Micronesia after sale, less prior recorded
20 encumbrances.

21 (2) Where property ordered to be confiscated is
22 recordable property, and where not prohibited under the
23 laws of a State of the Federated States of Micronesia:

24 (a) the property vests in the Federated States of
25 Micronesia in equity but does not vest in the Federated
26 States of Micronesia at law until the applicable

1 recordation requirements have been complied with;

2 (b) the Federated States of Micronesia is
3 entitled to be recorded as owner of the property; and

4 (c) the Secretary has power, on behalf of the
5 Federated States of Micronesia, to do or authorize the
6 doing of anything necessary or convenient to obtain the
7 recordation of the Federated States of Micronesia as
8 owner, including the execution of any instrument to be
9 executed by a person transferring an interest in
10 property of that kind.

11 (3) Where the Supreme Court makes a confiscation order
12 against property:

13 (a) the property shall not, except with the leave
14 of the Supreme Court, and in accordance with any
15 directions of the Supreme Court, be disposed of, or
16 otherwise dealt with, by or on behalf of the Federated
17 States of Micronesia before the relevant appeal date;
18 and

19 (b) if, after the relevant appeal date, the order
20 has not been discharged, the property may be disposed of
21 and the proceeds applied or otherwise dealt with in
22 accordance with the direction of the Secretary.

23 (4) In this section:

24 (a) 'Recordable property' means real property,
25 the title to which is passed by recordation in
26 accordance with the provisions of the applicable state

1 law;

2 (b) 'Relevant appeal date' used in relation to a
3 confiscation order made in consequence of a person's
4 conviction of a serious offense means:

5 (i) the date on which the period allowed by
6 rules of court for the lodging of an appeal against a
7 person's conviction, or for the lodging of an appeal
8 against the making of a confiscation order expires
9 without an appeal having been lodged, whichever is the
10 later; or

11 (ii) where an appeal against a person's
12 conviction or against the making of a confiscation order
13 is lodged, the date on which the appeal is finally
14 determined."

15 Section 126. Title 11 of the Code of the Federated States of
16 Micronesia, as amended, is hereby further amended by adding a new
17 section 937 of chapter 9 to read as follows:

18 "Section 937. Voidable transfers. The Supreme Court
19 may, before making a confiscation order and in the case
20 of property in respect of which a restraining order was
21 made, where the order was served in accordance with
22 section 960 of this title, set aside any conveyance or
23 transfer of the property that occurred after the seizure
24 of the property, or the service of the restraining
25 order, unless the conveyance or transfer was made for
26 valuable consideration to a person acting in good faith

1 and without notice."

2 Section 127. Title 11 of the Code of the Federated States of
3 Micronesia, as amended, is hereby further amended by adding a new
4 section 938 of chapter 9 to read as follows:

5 "Section 938. Protection of third parties.

6 (1) Where an application is made for a confiscation
7 order against property, a person who claims an interest
8 in the property may apply to the Supreme Court, before
9 the confiscation order is made, for an order under
10 subsection (2) of this section.

11 (2) If a person applies to the Supreme Court for an
12 order under this section in respect of property and the
13 Supreme Court is satisfied:

14 (a) that the person was not in any way involved
15 in the commission of the offense; and

16 (b) where the person acquired the interest during
17 or after the commission of the offense, that he or she
18 acquired the interest:

19 (i) for sufficient consideration; and

20 (ii) without knowing, and in circumstances
21 such as not to arouse a reasonable suspicion, that the
22 property was, at the time he or she acquired it, tainted
23 property, the Supreme Court shall make an order
24 declaring the nature, extent and value (at the time the
25 order is made) of the person's interest.

26 (3) Subject to subsection (4) of the this section,

1 where a confiscation order has already been made
 2 directing the confiscation of property, a person who
 3 claims an interest in the property may, before the end
 4 of the period of twelve (12) months, commencing on the
 5 day on which the confiscation order is made, apply to
 6 the Supreme Court for an order under subsection (2) of
 7 this section.

8 (4) A person who:

9 (a) had knowledge of the application for the
 10 confiscation order before the order was made; or

11 (b) appeared at the hearing of that application,
 12 shall not be permitted to make an application under
 13 subsection (3) of this section, except with leave of the
 14 Supreme Court.

15 (5) A person who makes an application under
 16 subsections (1) or (3) of this section must give no less
 17 than fourteen (14) days written notice of the making of
 18 the application to the Secretary, who shall be a party
 19 to any proceedings in the application.

20 (6) An applicant or the Secretary may, in
 21 accordance with the rules of court, appeal the Court's
 22 order made under subsection (2) of this section.

23 (7) Any person appointed by the Supreme Court under
 24 section 968 of this title shall, on application by any
 25 person who has obtained an order under subsection (2) of
 26 this section, and where the period allowed by the rules

1 of court with respect to the making of a claim has
2 expired and any appeal from that order has been
3 determined:

4 (a) direct that the property or part thereof to
5 which the interest of the applicant relates, be returned
6 to the applicant; or

7 (b) direct that an amount equal to the value of
8 the interest of the applicant, as declared in the order,
9 be paid to the applicant."

10 Section 128. Title 11 of the Code of the Federated States of
11 Micronesia, as amended, is hereby further amended by adding a new
12 section 939 of chapter 9 to read as follows:

13 "Section 939. Discharge of confiscation order on
14 quashing or reversal of conviction.

15 (1) Where the Supreme Court makes a confiscation order
16 against property in reliance on a person's conviction of
17 a serious offense and the conviction is subsequently
18 reversed by a court of final jurisdiction, the reversal
19 of the conviction discharges the order. However, upon
20 notice of intent by the Department of Justice to
21 recharge the matter, the court may order continued
22 detention of the property pursuant to section 935 of
23 this act.

24 (2) Where a confiscation order against property is
25 discharged as provided for in subsection (1) of this
26 section or by the Supreme Court, hearing an appeal

1 against the making of the confiscation order, any person
2 who claims to have an interest in the property
3 immediately before the making of the confiscation order
4 may apply to the court in writing for the transfer of
5 the interest to the person.

6 (3) On receipt of an application under subsection (2)
7 of this section, the court shall conduct a hearing to
8 determine, by a preponderance of the evidence, ownership
9 of the property, and if satisfied that the applicant is
10 lawfully entitled, and has no complicity with respect to
11 the offense, shall:

12 (a) if the interest is vested in the Federated
13 States of Micronesia, give directions that the property
14 or part thereof to which the interest of the applicant
15 relates, be transferred to the person; or

16 (b) in any other case, direct that there be
17 payable to the person an amount equal to the value of
18 the interest as at the time the order is made."

19 Section 129. Title 11 of the Code of the Federated States of
20 Micronesia, as amended, is hereby further amended by adding a new
21 section 940 of chapter 9 to read as follows:

22 "Section 940. Payment instead of a confiscation order.
23 Where the Supreme Court is satisfied that a confiscation
24 order should be made in respect of the property of a
25 person convicted of a serious offense, but that the
26 property or any part thereof or interest therein cannot

1 be made subject to such an order and, in particular:

2 (1) cannot, on the exercise of due diligence be
3 located;

4 (2) has been transferred to a third party in
5 circumstances which do not give rise to a reasonable
6 inference that the title or interest was transferred for
7 the purpose of avoiding the confiscation of the
8 property;

9 (3) is located outside the Federated States of
10 Micronesia;

11 (4) has been substantially diminished in value or
12 rendered worthless; or

13 (5) has been commingled with other property that
14 cannot be divided without difficulty, the Supreme Court
15 may, instead of ordering the property or part thereof or
16 interest therein to be confiscated, order the person to
17 pay to the Federated States of Micronesia an amount
18 equal to the value of the property, part or interest,
19 taking into account section 907 of this act."

20 Section 130. Title 11 of the Code of the Federated States of
21 Micronesia, as amended, is hereby further amended by adding a new
22 section 941 of chapter 9 to read as follows:

23 "Section 941. Application of procedure for enforcing
24 fines. Where the Supreme Court orders a person to pay
25 an amount under section 940 of this title, that amount
26 shall be treated as if it were a fine imposed upon him

1 or her in respect of a conviction for a serious offense,
2 and the Supreme Court shall:

3 (1) notwithstanding anything contained in any other
4 act, or law, including the Code of the Federated States
5 of Micronesia, impose, for contumacious default of the
6 payment of that amount, a term of imprisonment:

7 (a) of not more than thirty (30) days, where the
8 amount does not exceed \$1,000;

9 (b) of not more than one (1) year, where the
10 amount does not exceed \$5,000;

11 (c) of not more than five (5) years, where the
12 amount does not exceed \$50,000 dollars; or

13 (d) of not more than ten (10) years, where the
14 amount exceeds \$50,000;

15 (2) direct that the term of imprisonment imposed,
16 pursuant to subsection (1) of this section, be served
17 consecutively to any other form of imprisonment imposed
18 on that person, or that the person is then serving; or

19 (3) direct that other provisions of the Code of the
20 Federated States of Micronesia regarding the disposition
21 of offenders serving a term of imprisonment, shall not
22 apply in relation to a term of imprisonment, imposed on
23 a person pursuant to subsection (1) of this section."

24 Section 131. Title 11 of the Code of the Federated States of
25 Micronesia, as amended, is hereby further amended by enacting a
26 new part 3 of subchapter III of chapter 9 entitled "Pecuniary

1 Penalty Orders".

2 Section 132. Title 11 of the Code of the Federated States of
3 Micronesia, as amended, is hereby further amended by adding a new
4 section 942 of chapter 9 to read as follows:

5 "Section 942. Pecuniary penalty order on conviction.

6 (1) Subject to this section, where the Secretary
7 applies to the Supreme Court for a pecuniary penalty
8 order against a defendant in respect of the defendant's
9 conviction for a serious offense, the Court shall, if it
10 is satisfied that the defendant has benefited from that
11 offense, order the defendant to pay to the Federated
12 States of Micronesia an amount equal to the value of the
13 defendant's benefit from the offense, or such lesser
14 amount as the Court determines in accordance with
15 section 945 of this title, to be the amount that might
16 be recovered at the time the pecuniary penalty order is
17 made.

18 (2) The Supreme Court shall assess the value of the
19 benefits derived by a person from the commission of an
20 offense in accordance with sections 943, 944, 945, and
21 946.

22 (3) The Supreme Court shall not make a pecuniary
23 penalty order under this section:

24 (a) until the period allowed by the rules of
25 court for the lodging of an appeal against the
26 conviction has expired without such appeal having been

1 lodged; or

2 (b) where an appeal against the conviction has
3 been lodged, until the appeal is dismissed in accordance
4 with the rules of court or is finally determined,
5 whichever is the later date."

6 Section 133. Title 11 of the Code of the Federated States of
7 Micronesia, as amended, is hereby further amended by adding a new
8 section 943 of chapter 9 to read as follows:

9 "Section 943. Determination of benefit and assessment
10 of value.

11 (1) Where a defendant obtains property as the result
12 of, or in connection with the commission of a serious
13 offense, the defendant's benefit is the value of the
14 property so obtained. Value means fair market value at
15 the time the property was obtained or at the time of
16 conviction, at whichever time the value is greater.

17 (2) Where a defendant derived an advantage as a result
18 of or in connection with the commission of a serious
19 offense, the defendant's advantage shall be deemed to be
20 a sum of money equal to the value of the advantage so
21 derived.

22 (3) The Supreme Court, in determining whether a person
23 has benefited from the commission of a serious offense
24 or from that offense taken together with other serious
25 offenses shall, unless the contrary is proved by the
26 defendant by satisfactory evidence, presume:

1 (a) all property appearing to the Supreme Court
2 to be held by the person:

3 (i) on the day on which the application is
4 made;

5 (ii) at any time within the period between
6 the day the serious offense, or the earliest serious
7 offense, was committed and the day on which the
8 application is made; or

9 (iii) within the period of six (6) years
10 immediately before the day on which the application is
11 made, whichever is the longer, to be property that came
12 into the possession or under the control of the person
13 by reason of the commission of that serious offense or
14 those serious offenses for which the defendant was
15 convicted;

16 (b) any expenditure by the defendant since the
17 commission of the offense to be expenditure meted out of
18 payments received by the defendant as a result of, or in
19 connection with, the commission of that serious offense
20 or those serious offenses; and

21 (c) any property received or deemed to have been
22 received by the defendant at any time as a result of, or
23 in connection with the commission by the defendant of
24 that serious offense, or those serious offenses, to be
25 property received by the defendant free of any interest
26 therein.

1 (4) Where a pecuniary penalty order has been
 2 previously made against a defendant, in assessing the
 3 value of any benefit derived by the defendant from the
 4 commission of the serious offense, the Supreme Court
 5 shall leave out of account any benefits that are shown
 6 to the Supreme Court to have been taken into account in
 7 determining the amount to be recovered under that order.

8 (5) If evidence is given at the hearing of the
 9 application that the value of the defendant's property
 10 at any time after the commission of the serious offense
 11 exceeded the value of the defendant's property before
 12 the commission of the offense, then the Supreme Court
 13 shall, subject to subsection (6) of this section, treat
 14 the value of the benefit as being not less than the
 15 amount of that excess.

16 (6) If, after evidence of the kind referred to in
 17 subsection (5) of this section is given, the defendant
 18 proves to the Supreme Court by satisfactory evidence
 19 that the whole or part of the excess was due to causes
 20 unrelated to the commission of the serious offense,
 21 subsection (5) of this section does not apply to the
 22 excess or, as the case may be, that part."

23 Section 134. Title 11 of the Code of the Federated States of
 24 Micronesia, as amended, is hereby further amended by adding a new
 25 section 944 of chapter 9 to read as follows:

26 "Section 944. Statements relating to benefits from the

1 commission of serious offenses.

2 (1) Where:

3 (a) a defendant has been convicted of a serious
4 offense and the Secretary tenders to the Supreme Court a
5 statement as to any matters relevant to:

6 (i) determining whether the defendant has
7 benefited from the offense or from any other serious
8 offense of which the defendant is convicted in the same
9 proceedings or which is taken into account in
10 determining his or her sentence; or

11 (ii) an assessment of the value of the
12 defendant's benefit from the offense or any other
13 serious offense of which the defendant is convicted in
14 the same proceedings or which is taken into account; and

15 (b) the defendant admits to any extent an
16 allegation in the statement, the Supreme Court may, for
17 the purposes of so determining or making that
18 assessment, treat the defendant's admission as
19 conclusive of the matters to which it relates.

20 (2) Where:

21 (a) a statement is tendered under subsection
22 (1) (a) of this section; and

23 (b) the Court is satisfied that a copy of that
24 statement has been served on the defendant, the Supreme
25 Court may require the defendant to indicate to what
26 extent the defendant admits each allegation in the

1 statement and, so far as the defendant does not admit
2 any allegation, to indicate any matters the defendant
3 proposes to deny or reply on.

4 (3) Where the defendant fails in any respect to comply
5 with a requirement under subsection (2) of this section,
6 the defendant may be treated, for the purposes of this
7 section, as having admitted every allegation in the
8 statement except for any allegation in respect of
9 which the defendant complied with the requirements of
10 subsection (2) of this section.

11 (4) Where:

12 (a) the defendant tenders to the Supreme Court a
13 statement as to any matters relevant to determining the
14 amount that might be recovered at the time the pecuniary
15 penalty order is made; and

16 (b) the Secretary admits to any extent any
17 allegation in the statement, the Supreme Court may, for
18 the purposes of that determination, treat the admission
19 of the Secretary as conclusive of the matters to which
20 it relates.

21 (5) An allegation may be admitted, denied, or a matter
22 indicated for the purposes of this section, either:

23 (a) orally before the Supreme Court; or

24 (b) in writing, in accordance with the rules of
25 court.

26 (6) An admission by a defendant under this section

1 that the defendant received any benefits from the
2 commission of a serious offense is admissible in any
3 proceedings for any offense."

4 Section 135. Title 11 of the Code of the Federated States of
5 Micronesia, as amended, is hereby further amended by adding a new
6 section 945 of chapter 9 to read as follows:

7 "Section 945. Amount recovered under pecuniary penalty
8 order.

9 (1) The amount to be recovered from the defendant
10 under a pecuniary penalty order shall be the amount that
11 the Supreme Court assesses to be the value of the
12 defendant's benefit from the serious offense, or if more
13 than one offense, the aggregate benefit of all the
14 offenses.

15 (2) Where the amount of the benefit derived by the
16 defendant from the serious offense(s) greatly exceeds
17 the amount which might be recovered from the defendant
18 at the time the pecuniary penalty order is made, the
19 Supreme Court may order a pecuniary penalty in such
20 amount as the court finds is realizable at the time of
21 issuance of the pecuniary penalty order, but shall be
22 required to issue findings of fact justifying such
23 lesser amount."

24 Section 136. Title 11 of the Code of the Federated States of
25 Micronesia, as amended, is hereby further amended by adding a new
26 section 946 of chapter 9 to read as follows:

1 "Section 946. Variation of pecuniary penalty order.

2 Where:

3 (1) the Supreme Court makes a pecuniary penalty order
4 against a defendant in relation to a serious offense;

5 (2) in calculating the amount of the pecuniary penalty
6 order, the Court took into account a confiscation order
7 of property or a proposed confiscation order in respect
8 of property; and

9 (3) an appeal against confiscation or a confiscation
10 order is allowed, or the proceedings from the proposed
11 confiscation order terminate without the proposed
12 confiscation order being made, the Secretary may apply
13 to the Supreme Court for a variation of the pecuniary
14 penalty order to increase the amount of the order by the
15 value of the property not so confiscated and the Supreme
16 Court may, if it considers it appropriate to do so, vary
17 the order accordingly."

18 Section 137. Title 11 of the Code of the Federated States of
19 Micronesia, as amended, is hereby further amended by adding a new
20 section 947 of chapter 9 to read as follows:

21 "Section 947. Lifting the corporate veil.

22 (1) In assessing the value of benefits derived by a
23 defendant from the commission of a serious offense, the
24 Supreme Court may treat as property of the defendant,
25 any property that, in the opinion of the Supreme Court,
26 is subject to the effective control of the defendant,

1 whether or not the defendant has:

2 (a) any legal or equitable interest in the
3 property; or

4 (b) any right, power or privilege in connection
5 with the property.

6 (2) Without prejudice to the generality of subsection
7 (1) of this section, the Supreme Court may take into
8 consideration:

9 (a) shareholdings in, debentures over or
10 directorships in any company, corporation or commercial
11 enterprise that has an interest, whether direct or
12 indirect, in the property, and for this purpose the
13 Supreme Court may order the investigation and inspection
14 of the books and records of any named company,
15 corporation or commercial enterprise;

16 (b) any trust that has any relationship to the
17 property; or

18 (c) any relationship whatsoever between the
19 persons having an interest in the property or in
20 companies of the kind referred to in subsection (2) (a)
21 of this section or trust of the kind referred to in
22 subsection (2) (b) of this section, and any other
23 persons.

24 (3) Where the Supreme Court, for the purposes of
25 making a pecuniary penalty order against a defendant,
26 treats particular property as the defendant's property

1 pursuant to subsection (1) of this section, the Supreme
2 Court may, on application by the Secretary, make an
3 order declaring that the property is available to
4 satisfy the order.

5 (4) Where the Supreme Court declares that property is
6 available to satisfy a pecuniary penalty order:

7 (a) the order may be enforced against the
8 property as if the property were the property of the
9 defendant against whom the order is made; and

10 (b) a restraining order may be made in respect of
11 the property as if the property were property of the
12 defendant against whom the order is made.

13 (5) Where the Secretary makes an application for an
14 order under subsection (3) of this section, that
15 property is available to satisfy a pecuniary penalty
16 order against a defendant:

17 (a) the Secretary shall give written notice of
18 the application to the defendant and to any person who
19 the Secretary has reason to believe may have an interest
20 in the property; and

21 (b) the defendant and any person who claims an
22 interest in the property may appear and adduce evidence
23 at the hearing."

24 Section 138. Title 11 of the Code of the Federated States of
25 Micronesia, as amended, is hereby further amended by adding a new
26 section 948 of chapter 9 to read as follows:

1 "Section 948. Enforcement of pecuniary penalty orders.
2 Where the Supreme Court orders a defendant to pay an
3 amount under a pecuniary penalty order, the provisions
4 of section 941 shall apply with such modifications as
5 the Supreme Court may determine for the purpose of
6 empowering the Supreme Court to impose a term of
7 imprisonment on a defendant in contumacious default of
8 compliance by the defendant with a pecuniary penalty
9 order."

10 Section 139. Title 11 of the Code of the Federated States of
11 Micronesia, as amended, is hereby further amended by adding a new
12 section 949 of chapter 9 to read as follows:

13 "Section 949. Discharge of pecuniary penalty orders. A
14 pecuniary penalty order is discharged:

15 (1) if the conviction of the serious offense or
16 offenses in reliance on which the order was made is
17 reversed and no conviction for the offense or offenses
18 is substituted;

19 (2) if the order is rescinded; or

20 (3) on the satisfaction of the order by payment of the
21 amount due under the order."

22 Section 140. Title 11 of the Code of the Federated States of
23 Micronesia, as amended, is hereby further amended by enacting a
24 new part 4 of subchapter III of chapter 9 entitled "Control of
25 Property".

26 Section 141. Title 11 of the Code of the Federated States of

1 Micronesia, as amended, is hereby further amended by adding a new
2 section 950 of chapter 9 to read as follows:

3 "Section 950. Powers to search for and seize tainted
4 property.

5 (1) In addition to any powers granted under title 12
6 of the Code of the Federated States of Micronesia and
7 other applicable laws, a police officer may:

8 (a) search a person for tainted property;
9 (b) enter upon land or upon or into premises and
10 search the land or premises for tainted property; and

11 (c) in either case, seize any property found in
12 the course of the search that the police officer
13 believes, on reasonable grounds to be tainted property,
14 provided that the search or seizure is made:

15 (i) with the consent of the person or the
16 occupier of the land or premises as the case may be;

17 (ii) under a warrant issued under section 951
18 of this title; or

19 (iii) under section 953 of this title.

20 (2) Where a police officer may search a person under
21 this act, the officer may also search:

22 (a) the clothing that is being worn by the
23 person; and

24 (b) any property in, or apparently in, the
25 person's immediate control."

26 Section 142. Title 11 of the Code of the Federated States of

1 Micronesia, as amended, is hereby further amended by adding a new
2 section 951 of chapter 9 to read as follows:

3 "Section 951. Search warrants in relation to tainted
4 property.

5 (1) Where a police officer has probable cause to
6 believe that there is, or may be within the next
7 seventy-two (72) hours, tainted property of a particular
8 kind:

9 (a) on a person;

10 (b) in the clothing that is being worn by a
11 person;

12 (c) otherwise in a person's immediate control; or

13 (d) upon land or upon or in any premises;

14 the police officer may lay before a justice, a sworn
15 affidavit setting out those grounds and apply for the
16 issuance of a warrant under this act or under title 12
17 of the Code of the Federated States of Micronesia, to
18 search the person, the land or the premises as the case
19 may be, for tainted property of that kind.

20 (2) Where an application is made under subsection (1)
21 of this section for a warrant to search a person, land
22 or premises, the justice may, subject to subsection (4)
23 of this section issue a warrant authorizing a police
24 officer (whether or not named in the warrant) with such
25 assistance and by such force as is necessary and
26 reasonable:

1 (a) to search the person for tainted property of
2 that kind;

3 (b) to enter upon the land or in or upon any
4 premises and to search the land or premises for tainted
5 property of that kind; and

6 (c) to seize property found in the course of the
7 search that the police officer has probable cause to
8 believe to be tainted property of that kind.

9 (3) A warrant may be issued under subsection (2) of
10 this section in relation to tainted property, whether or
11 not information or a complaint has been filed in respect
12 of the relevant offense.

13 (4) A justice shall not issue a warrant under
14 subsection (2) of this section unless, where information
15 or a complaint has not been filed in respect of the
16 relevant offense at the time when the application for
17 the warrant is made, the justice is satisfied that there
18 is probable cause to believe a crime has been or is
19 about to be committed and that tainted property or
20 evidence of such crime is located at the place or on the
21 person or thing to be searched.

22 (5) A warrant issued under this section shall state:

23 (a) the purpose for which it is issued, including
24 a reference to the nature of the relevant offense;

25 (b) a description of the kind of property
26 authorized to be seized;

1 (c) a time at which the warrant ceases to be in
2 force; and

3 (d) whether entry is authorized to be made at any
4 time of the day or night or during specified hours.

5 (6) If, during the course of searching under a warrant
6 issued under this section, a police officer finds:

7 (a) property that the police officer has probable
8 cause to believe to be tainted property either of a type
9 not specified in the warrant or tainted property in
10 relation to another serious offense; or

11 (b) anything the police officer has probable
12 cause to believe will afford evidence as to the
13 commission of a serious offense (whether or not such
14 offense is the same as that described in the warrant),
15 the police officer may seize that property or thing and
16 the warrant shall be deemed to authorize such seizure."

17 Section 143. Title 11 of the Code of the Federated States of
18 Micronesia, as amended, is hereby further amended by adding a new
19 section 952 of chapter 9 to read as follows:

20 "Section 952. Application for search warrants by
21 telephone or other means of communication.

22 (1) Where by reason of urgency, a police officer
23 considers it necessary to do so, the officer may make
24 application for a search warrant under section 951 of
25 this title by telephone, radio communication, facsimile
26 or other means of communication by which identity of the

1 requesting officer can be identified.

2 (2) A justice, to whom an application for the issuance
3 of a warrant is made by telephone or other means of
4 communication, may sign a warrant if the justice is
5 satisfied that there is probable cause to do so, and
6 shall inform the police officer of the terms of the
7 warrant so signed.

8 (3) The police officer executing the warrant shall
9 inform any persons subject to and present at the time of
10 the search of the terms of the warrant.

11 (4) The police officer to whom a warrant is granted by
12 telephone or other means of communication shall, not
13 later than three (3) working days following issuance of
14 the warrant, provide the justice with a duly sworn
15 application for a warrant completed by the officer,
16 together with the officer's sworn affidavit in support
17 of the warrant."

18 Section 144. Title 11 of the Code of the Federated States of
19 Micronesia, as amended, is hereby further amended by adding a new
20 section 953 of chapter 9 to read as follows:

21 "Section 953. Searches in emergencies.

22 (1) Where a police officer has probable cause to
23 believe that:

24 (a) particular property is tainted property;

25 (b) it is necessary to exercise the power of

26 search and seizure in order to prevent the concealment,

1 loss or destruction of the property; and

2 (c) the circumstances are so urgent that they
3 require immediate exercise of the power without the
4 authority of a warrant or the order of a court, the
5 police officer may:

6 (i) search a person;

7 (ii) enter upon land, or upon or into
8 premises and search for the property; and

9 (iii) if property is found, seize the
10 property.

11 (2) If during the course of a search conducted under
12 this section, a police officer finds:

13 (a) property that the police officer has probable
14 cause to believe to be tainted property; or

15 (b) any thing the police officer has probable
16 cause to believe will afford evidence as to the
17 commission of a serious offense;

18 the police officer may seize that property or thing."

19 Section 145. Title 11 of the Code of the Federated States of
20 Micronesia, as amended, is hereby further amended by adding a new
21 section 954 of chapter 9 to read as follows:

22 "Section 954. Record of property seized.

23 A police officer who seizes property under section 951
24 or section 953 of this title, shall retain the property
25 seized, make a written record thereof, and take
26 reasonable care to ensure that the property is

1 preserved."

2 Section 146. Title 11 of the Code of the Federated States of
3 Micronesia, as amended, is hereby further amended by adding a new
4 section 955 of chapter 9 to read as follows:

5 "Section 955. Return of seized property.

6 (1) Where property has been seized under section 951
7 or section 953 of this title, (otherwise than because it
8 may afford evidence of the commission of an offense), a
9 person who claims an interest in the property may apply
10 to the Supreme Court for an order that the property be
11 returned to the person.

12 (2) Where a person makes an application under
13 subsection (1) of this section and the Supreme Court is
14 satisfied that:

15 (a) the person making the application is entitled
16 to possession of the property;

17 (b) the property is not tainted property; and

18 (c) the defendant has no interest in the
19 property, the Supreme Court shall order the return of
20 the property to the person making the application."

21 Section 147. Title 11 of the Code of the Federated States of
22 Micronesia, as amended, is hereby further amended by adding a new
23 section 956 of chapter 9 to read as follows:

24 "Section 956. Search for and seizure of tainted

25 property in relation to foreign offenses. Where a

26 foreign state requests assistance with the location or

1 seizure of property suspected to be tainted property in
 2 respect of an offense within its jurisdiction, the
 3 provisions of sections 951, 952 and 953 of this title
 4 apply, with the necessary changes in points of detail,
 5 provided that the Secretary has, pursuant to applicable
 6 law, authorized the giving of assistance to the foreign
 7 state."

8 Section 148. Title 11 of the Code of the Federated States of
 9 Micronesia, as amended, is hereby further amended by enacting a
 10 new part 5 of subchapter III of chapter 9 entitled "Restraining
 11 Orders".

12 Section 149. Title 11 of the Code of the Federated States of
 13 Micronesia, as amended, is hereby further amended by adding a new
 14 section 957 of chapter 9 to read as follows:

15 "Section 957. Application for restraining order.

16 (1) The Secretary may apply to the Supreme Court for a
 17 restraining order against any covered property whether
 18 held by a defendant or held by a person other than a
 19 defendant.

20 (2) An application for a restraining order may be made
 21 ex parte and shall be in writing and be accompanied by
 22 an affidavit stating:

23 (a) where a defendant has been convicted of a
 24 serious offense, the serious offense for which the
 25 defendant was convicted, the date of the conviction, the
 26 court before which the conviction was obtained and

1 whether an appeal has been lodged against the
2 conviction;

3 (b) where a defendant has not been convicted of a
4 serious offense, the serious offense with which the
5 defendant is charged or about to be charged and the
6 grounds for believing that the defendant committed the
7 offense;

8 (c) a description of the property sought to be
9 restrained;

10 (d) the name and address of the person who is
11 believed to be in possession of the property;

12 (e) the grounds for the belief that the property
13 is tainted property in relation to the offense;

14 (f) the grounds for the belief that the defendant
15 derived a benefit directly or indirectly from the
16 commission of the offense;

17 (g) where the application seeks a restraining
18 order against property of a person other than the
19 defendant, the grounds for the belief that the property
20 is tainted property in relation to the offense and is
21 subject to the effective control of the defendant; and

22 (h) the grounds for the belief that a
23 confiscation order or a pecuniary penalty order may be
24 or is likely to be made under this subchapter in respect
25 of the property."

26 Section 150. Title 11 of the Code of the Federated States of

1 Micronesia, as amended, is hereby further amended by adding a new
2 section 958 of chapter 9 to read as follows:

3 "Section 958. Restraining orders.

4 (1) Subject to this section, where the Secretary
5 applies to the Supreme Court for a restraining order
6 against property and the Supreme Court is satisfied
7 that:

8 (a) the defendant has been convicted of a serious
9 offense, or has been charged or is about to be charged
10 with a serious offense;

11 (b) where the defendant has not been convicted of
12 a serious offense, there are reasonable grounds for
13 believing that the defendant committed the offense;

14 (c) there is reasonable cause to believe that the
15 property is tainted property in relation to an offense,
16 or that the defendant derived a benefit directly or
17 indirectly from the commission of the offense;

18 (d) where the application seeks a restraining
19 order against property of a person other than the
20 defendant, there are reasonable grounds for believing
21 that the property is tainted property in relation to an
22 offense, and that the property is subject to the
23 effective control of the defendant; and

24 (e) there are reasonable grounds for believing
25 that a confiscation order or a pecuniary penalty order
26 is likely to be made under this subchapter in respect of

1 the property, the Supreme Court may make an order
 2 prohibiting the defendant or any person from disposing
 3 of, or otherwise dealing with, the property or such part
 4 thereof or interest therein as is specified in the
 5 order, except in such manner as may be specified in the
 6 order and at the request of the Secretary, or upon its
 7 own motion, where the Supreme Court is satisfied that
 8 the circumstances so require:

9 (i) the court is authorized to appoint a
 10 receiver or fiduciary to take custody of the property or
 11 such part thereof as is specified in the order, and to
 12 manage or otherwise deal with all or any part of the
 13 property in accordance with the directions of the
 14 Supreme Court; and

15 (ii) require any person having possession of
 16 the property to give possession thereof to the receiver
 17 or fiduciary.

18 (2) In extreme cases, where undue hardship to innocent
 19 parties would otherwise occur, an order under subsection
 20 (1) of this section may be made subject to such
 21 conditions as the Supreme Court deems fit providing for
 22 meting out of the property, or a specified part of the
 23 property, the reasonable living expenses of defendant's
 24 immediate family.

25 (3) In determining whether there are reasonable
 26 grounds for believing that the property is subject to

1 the effective control of the defendant, the Supreme
2 Court may take into account the matters referred to in
3 section 947 of this title.

4 (4) Where the court appointed receiver or fiduciary is
5 given a direction in relation to any property, he or she
6 may apply to the Supreme Court for directions or any
7 question respecting the management or preservation of
8 the property under his or her control.

9 (5) An application under section 957 of this title,
10 shall be served on all persons interested in the
11 application or such of them as the Court deems expedient
12 and all such persons shall have the right to appear at
13 the hearing and be heard.

14 (6) When the application is made under section 957 of
15 this title on the basis that a person is about to be
16 charged, any order made by the Supreme Court shall lapse
17 if the person is not charged:

18 (a) where the offense is an offense against the
19 law of the Federated States of Micronesia, within five
20 (5) working days; and

21 (b) where the offense is an offense against the
22 law of a foreign state, within one hundred-fifty (150)
23 working days."

24 Section 151. Title 11 of the Code of the Federated States of
25 Micronesia, as amended, is hereby further amended by adding a new
26 section 959 of chapter 9 to read as follows:

1 "Section 959. Notice of application for restraining
2 order. Before entering a restraining order the Supreme
3 Court may require notice to be given to, and may hear,
4 any person who, in the opinion of the Supreme Court,
5 appears to have an interest in the property, unless the
6 Supreme Court is of the opinion that giving such notice
7 before making the order would result in the
8 disappearance, dissipation or reduction in value of the
9 property."

10 Section 152. Title 11 of the Code of the Federated States of
11 Micronesia, as amended, is hereby further amended by adding a new
12 section 960 of chapter 9 to read as follows:

13 "Section 960. Service of restraining order. A copy of
14 a restraining order shall be served on a person affected
15 by the order in such manner as the Supreme Court directs
16 or as may be prescribed by rules of court."

17 Section 153. Title 11 of the Code of the Federated States of
18 Micronesia, as amended, is hereby further amended by adding a new
19 section 961 of chapter 9 to read as follows:

20 "Section 961. Recording of restraining order.

21 (1) A copy of a restraining order which affects land
22 in the Federated States of Micronesia shall be recorded
23 with the relevant state authority in the state where the
24 land is situated.

25 (2) A restraining order is of no effect with respect
26 to recorded land unless it is recorded as an encumbrance

1 under the applicable state law.

2 (3) Where particulars of a restraining order are
3 recorded under the applicable state law, a person who
4 subsequently deals with the property shall, for the
5 purposes of section 962 of this title, be deemed to have
6 notice of the order at the time of the dealing."

7 Section 154. Title 11 of the Code of the Federated States of
8 Micronesia, as amended, is hereby further amended by adding a new
9 section 962 of chapter 9 to read as follows:

10 "Section 962. Violation of restraining order.

11 (1) A person who knowingly violates a restraining
12 order by disposing of or otherwise dealing with property
13 that is subject to the restraining order, commits a
14 felony offense, punishable upon conviction by
15 imprisonment for a maximum of five (5) years or a
16 maximum fine of \$50,000, or both; PROVIDED, however, in
17 the case of a corporation, company, commercial
18 enterprise, commercial entity or other legal person, the
19 maximum fine shall be increased to \$250,000.

20 (2) Where a restraining order is entered against
21 property and the property is disposed of, or otherwise
22 dealt with, in violation of the restraining order, and
23 the disposition or dealing was not for sufficient
24 consideration or not in favor of a person who acted in
25 good faith and without notice, the Secretary may apply
26 to the Supreme Court that entered the restraining order

1 for an order that the disposition or dealing be set
2 aside.

3 (3) Where the Secretary makes an application under
4 subsection (2) of this section in relation to a
5 disposition or dealing, the Supreme Court may:

6 (a) set aside the disposition or dealing as from
7 the day on which the disposition or dealing took place;
8 or

9 (b) set aside the disposition or dealing as from
10 the day of the order under this section and declare the
11 respective rights of any persons who acquired interests
12 in the property on, or after the day on which the
13 disposition or dealing took place, and before the day of
14 the order under this section."

15 Section 155. Title 11 of the Code of the Federated States of
16 Micronesia, as amended, is hereby further amended by adding a new
17 section 963 of chapter 9 to read as follows:

18 "Section 963. Duration of restraining order. A
19 restraining order issued under this act remains in force
20 until:

21 (1) it is discharged, revoked or varied;

22 (2) the period of six (6) months from the date on
23 which it is made or such later time as the Supreme Court
24 may determine; or

25 (3) a confiscation order or a pecuniary penalty order,
26 as the case may be, is made in respect of property which

1 is the subject of the order."

2 Section 156. Title 11 of the Code of the Federated States of
3 Micronesia, as amended, is hereby further amended by adding a new
4 section 964 of chapter 9 to read as follows:

5 "Section 964. Review of restraining orders.

6 (1) A person, other than the defendant, who has an
7 interest in property in respect of which a restraining
8 order was entered may, at any time, apply to the Supreme
9 Court for an order under subsection (4) of this section.

10 (2) An application made under subsection (1) of this
11 section shall not be heard by the Supreme Court unless
12 the applicant has given the Secretary at least five (5)
13 working days notice in writing of the application.

14 (3) The Supreme Court may require notice of the
15 application to be given to, and may hear, any person
16 who, in the opinion of the Supreme Court, appears to
17 have an interest in the property.

18 (4) On an application under subsection (1) of this
19 section the Supreme Court may revoke or vary the order
20 or make the order subject to such conditions as the
21 Supreme Court deems appropriate. For the purposes of
22 this subsection the Supreme Court may:

23 (a) impose conditions on the applicant; or

24 (b) vary the order to permit the payment of
25 reasonable living expenses of the applicant, including
26 his or her dependents, if any, and reasonable legal or

1 business expenses of the applicant.

2 (5) An order under subsection (4) of this section may
3 only be made if the Supreme Court is satisfied that the:

4 (a) applicant is the lawful owner of the property
5 or is entitled to lawful possession thereof, and appears
6 to be innocent of any complicity in the commission of a
7 serious offense or of any collusion in relation to such
8 offense; and

9 (b) that the property will no longer be required
10 for the purposes of any investigation or as evidence in
11 any proceedings."

12 Section 157. Title 11 of the Code of the Federated States of
13 Micronesia, as amended, is hereby further amended by adding a new
14 section 965 of chapter 9 to read as follows:

15 "Section 965. Extension of restraining orders.

16 (1) The Secretary may apply to the judge of the
17 Supreme Court that entered a restraining order for an
18 extension of the period of the operation of the order.

19 (2) Where the Secretary makes an application under
20 subsection (1) of this section, the Supreme Court may
21 extend the operation of a restraining order for a
22 specified period, if it is satisfied that a confiscation
23 order may be made in respect of the property or part
24 thereof or that a pecuniary penalty order may be made
25 against the person."

26 Section 158. Title 11 of the Code of the Federated States of

1 Micronesia, as amended, is hereby further amended by enacting a
2 new part 6 of subchapter III of chapter 9 entitled "Realization of
3 Covered Property".

4 Section 159. Title 11 of the Code of the Federated States of
5 Micronesia, as amended, is hereby further amended by adding a new
6 section 966 of chapter 9 to read as follows:

7 "Section 966. Realization of covered property.

8 (1) Where:

9 (a) a pecuniary penalty order is made;

10 (b) all conditions of the order have been met;

11 and

12 (c) the order is not discharged, the Supreme

13 Court may, on an application by the Secretary, exercise

14 the powers conferred upon the Supreme Court by this

15 section with respect to covered property (as defined by

16 section 903(1)(f)) of this title.

17 (2) The Supreme Court may appoint a receiver in

18 respect of covered property.

19 (3) The Supreme Court may empower a receiver appointed

20 under subsection (2) of this section to take possession

21 of any covered property subject to such conditions or

22 exceptions as may be specified by the Supreme Court.

23 (4) The Supreme Court may order any person having

24 possession of covered property to give possession of it

25 to any such receiver.

26 (5) The Supreme Court may empower any such receiver to

1 realize (liquidate and convert into cash and/or obtain
 2 payment of the value of defendant's interest) any
 3 covered property in such manner as the Supreme Court may
 4 direct.

5 (6) The Supreme Court may order any person holding an
 6 interest in covered property to make such payment to the
 7 receiver in respect of any interest held by the
 8 defendant or, as the case may be, the recipient of a
 9 gift caught by this act as the Supreme Court may direct,
 10 and the Supreme Court may, on the payment being made by
 11 order, transfer, grant or extinguish any interest in the
 12 property.

13 (7) The Supreme Court shall not, in respect of any
 14 property, exercise the powers conferred by subsections
 15 (3), (4), (5) or (6) of this section, unless a
 16 reasonable opportunity has been given for persons
 17 holding any interest in the property to make
 18 representations to the Supreme Court."

19 Section 160. Title 11 of the Code of the Federated States of
 20 Micronesia, as amended, is hereby further amended by adding a new
 21 section 967 of chapter 9 to read as follows:

22 "Section 967. Application of proceeds of realization
 23 and other sums.

24 (1) Subject to subsection (2) of this section, the
 25 following property in the hands of a receiver appointed
 26 under this act, being:

1 (a) the proceeds of the realization of any
2 property under section 966 of this title; and

3 (b) any other sums, being property held by the
4 defendant, shall, after such payments, if any, as the
5 Supreme Court may direct have been made out of those
6 sums, be payable to the Clerk of the Supreme Court and
7 be applied on the defendant's behalf towards the
8 satisfaction of the pecuniary penalty order in the
9 manner provided by subsection (3) of this section.

10 (2) If, after the amount payable under the
11 confiscation order has been fully paid, any such sums
12 remain in the hands of such a receiver, the receiver
13 shall distribute those sums:

14 (a) among such of those innocent third persons
15 who held covered property which has been recovered under
16 this subchapter (either through seizure and liquidation
17 or by payment of defendant's interest therein by the
18 holder) who have come forward and made application to
19 the Court for return of the property; and

20 (b) in such proportions, as the Supreme Court may
21 direct, after giving a reasonable opportunity for those
22 persons to make representations to the Supreme Court.

23 (3) Property received by the Clerk of the Supreme
24 Court on account of an amount payable under a
25 confiscation order shall be applied as follows:

26 (a) if received by the Clerk of the Supreme Court

1 from a receiver under subsection (1) of this section, it
2 shall first be applied in payment of the receiver's
3 remuneration and expenses; and

4 (b) the balance shall be paid or, as the case may
5 be, transferred, to the General Fund of the Federated
6 States of Micronesia, until such time that a Federated
7 States of Micronesia Fund For Drug Abuse Prevention And
8 Control is established pursuant to law, at which time,
9 any balance then accrued, shall be paid, or as the case
10 may be, transferred, to said Fund."

11 Section 161. Title 11 of the Code of the Federated States of
12 Micronesia, as amended, is hereby further amended by adding a new
13 section 968 of chapter 9 to read as follows:

14 "Section 968. Exercise of powers of receiver or
15 fiduciary.

16 (1) The following provisions of this section apply to
17 the powers conferred on the Supreme Court by sections
18 958, 964, 965 and 966 of this title, or on a receiver or
19 fiduciary appointed under section 958(1)(e) or section
20 966(2) of this title.

21 (2) The position of receiver or fiduciary shall be one
22 of confidence and trust, and the powers of a receiver or
23 fiduciary shall be exercised by him or her with the
24 highest degree of competence, honesty, good faith and
25 fair dealing.

26 (3) Subject to the following provisions of this

1 section, the powers of a receiver or fiduciary shall be
2 exercised first so as to satisfy any pecuniary penalty
3 order, which order shall be satisfied first from the
4 present value of covered property of the defendant.

5 (4) In the case of covered property held by a person
6 to whom the defendant has directly or indirectly made a
7 gift caught by this act, the receiver or fiduciary shall
8 endeavor to realize the present value of the gift.

9 (5) The powers shall be exercised with a view to
10 allowing any innocent person or the innocent recipient
11 of any such gift to retain or recover the value of any
12 property held by him or her.

13 (6) An order may be made or other action taken in
14 respect of costs arising from the case.

15 (7) In exercising the powers granted under this
16 section, no account shall be taken of any obligations of
17 the defendant or of the recipient of any such gift which
18 conflict with the obligation to satisfy the pecuniary
19 penalty order or any confiscation order issued in the
20 case."

21 Section 162. Title 11 of the Code of the Federated States of
22 Micronesia, as amended, is hereby further amended by adding a new
23 section 969 of chapter 9 to read as follows:

24 "Section 969. Supremacy of this subchapter in
25 bankruptcy or winding up.

26 (1) Where a person who holds covered property is

1 adjudged bankrupt in any proceeding wherever held, the
 2 Federated States of Micronesia shall stand as first
 3 lienholder to the extent of any amount owed by the
 4 bankrupt person in the Federated States of Micronesia as
 5 a pecuniary penalty or under a confiscation order; and

6 (a) property located in the Federated States of
 7 Micronesia which is subject to a restraining order made
 8 before the order adjudging the person bankrupt; and

9 (b) any proceeds of property confiscated under
 10 this act, or recovered by virtue of sections 966(5) or
 11 (6) of this title, and held by a person appointed under
 12 section 958(1)(e) or 966(2) of this title, shall not be
 13 considered as property of the bankrupt person or the
 14 estate for the purposes of the applicable bankruptcy act
 15 or any civil attachment proceedings.

16 (2) Subject to subsection (1) of this section, where a
 17 person has been adjudged bankrupt, the powers conferred
 18 on the Supreme Court by sections 958 and 966 of this
 19 title, or on a person appointed under section 958(1)(g)
 20 or 966(2) of this title, shall not be exercised in
 21 relation to property comprised as property of the
 22 bankrupt person for the purposes of the applicable
 23 bankruptcy act.

24 (3) Where a receiver stands appointed under an
 25 applicable bankruptcy act, and property of the debtor is
 26 subject to a restraining order under or for the purposes

1 of the bankruptcy act, the powers conferred on the
 2 receiver by virtue of the bankruptcy act do not apply to
 3 tainted property or proceeds of crime which are subject
 4 to forfeiture or confiscation under this act until such
 5 time as the period of time for bringing an action for
 6 forfeiture or confiscation under this act is exhausted.

7 (4) Where a person is adjudged bankrupt and has
 8 directly or indirectly made a gift caught by this act:

9 (a) no order shall be made under the applicable
 10 bankruptcy act relating to such gift where:

11 (i) the bankrupt person has been charged
 12 with a serious offense and the proceedings have not been
 13 concluded, either by the acquittal of the defendant or
 14 final dismissal of the proceedings; or where

15 (ii) property of the person to whom the gift
 16 was made is subject to a restraining order or
 17 confiscation order under this act; and

18 (b) any order made under the applicable
 19 bankruptcy act, shall take into account any recovery
 20 under this act of property held by the person to whom
 21 the gift was made."

22 Section 163. Title 11 of the Code of the Federated States of
 23 Micronesia, as amended, is hereby further amended by adding a new
 24 section 970 of chapter 9 to read as follows:

25 "Section 970. Winding up of corporation, company, or
 26 other commercial enterprise or entity holding covered

1 property.

2 (1) Where covered property is held by a corporation,
 3 company, or other commercial enterprise or entity and an
 4 order for the winding up has been made, or a resolution
 5 has been passed by the corporation, company, or other
 6 commercial enterprise or entity for its voluntary
 7 winding up, the functions of the liquidator or receiver
 8 appointed for the winding up shall not be exercisable in
 9 relation to:

10 (a) property subject to a restraining order or
 11 confiscation order made before such winding up; or

12 (b) any proceeds of property recovered by virtue
 13 of sections 966(5) or (6) of this title, and in the
 14 hands of a person appointed under section 958(1)(e) or
 15 966(2) of this title, but there shall be payable out of
 16 such property any expenses (including the remuneration
 17 of the liquidator or receiver) properly incurred in the
 18 winding up of the corporation, company, or other
 19 commercial enterprise or entity.

20 (2) Where, in the case of a corporation, company, or
 21 other commercial enterprise or entity, an order for
 22 winding up has been made or a resolution for winding up
 23 has been passed, the powers conferred on the Supreme
 24 Court by section 958 or 966 of this title shall not be
 25 exercised in relation to any covered property held by
 26 the corporation, company, or other commercial enterprise

1 or entity:

2 (a) which will unfairly inhibit the liquidator or
3 receiver from exercising his or her proper functions for
4 the purpose of distributing any property held by the
5 company to the company's legitimate creditors; or

6 (b) which will prevent the payment out of any
7 property the corporation, company, or other commercial
8 enterprise or entity, of expenses (including the
9 remuneration of the liquidator or receiver) properly
10 incurred in the winding up.

11 (3) Subsection (2) of this section does not affect the
12 enforcement of a restraining order or confiscation order
13 made before the order or resolution for winding up.

14 (4) Nothing in other laws of the Federated States of
15 Micronesia or its states relating to corporations,
16 companies, or other commercial enterprises or entities
17 shall be taken as restricting, or enabling the
18 restriction of, the exercise of the powers conferred on
19 the Supreme Court by section 958 or 966 of this title,
20 and in case of conflict, this act shall take
21 precedence."

22 Section 164. Title 11 of the Code of the Federated States of
23 Micronesia, as amended, is hereby further amended by enacting a
24 new part 7 of subchapter III of chapter 9 entitled "Production
25 Orders and Other Information Gathering Powers".

26 Section 165. Title 11 of the Code of the Federated States of

1 Micronesia, as amended, is hereby further amended by adding a new
2 section 971 of chapter 9 to read as follows:

3 "Section 971. Production orders.

4 (1) Where a defendant has been charged with or
5 convicted of a serious offense, and a police officer has
6 probable cause to believe that any person has possession
7 or control of:

8 (a) a document relevant to identifying, locating
9 or quantifying property of the defendant, or to
10 identifying or locating a document necessary for the
11 transfer of property of the defendant; or

12 (b) a document relevant to identifying, locating
13 or quantifying tainted property in relation to the
14 offense, or to identifying or locating a document
15 necessary for the transfer of tainted property in
16 relation to the offense, the police officer may apply,
17 ex parte and in writing, to a justice for an order
18 against the person suspected of having possession or
19 control of a document of the kind referred. The
20 application shall be supported by an affidavit.

21 (2) The justice may, if he or she considers there is
22 probable cause for so doing, make an order under this
23 act, that the person produce to a police officer, at a
24 time and place specified in the order, any documents of
25 the kind referred to in subsection (1) of this section.

26 (3) A police officer to whom documents are produced

1 may:

2 (a) inspect the documents;

3 (b) make copies of the documents; or

4 (c) retain the documents for so long as is

5 reasonably necessary for the purposes of this act.

6 (4) Where a police officer retains the documents
7 produced, the officer shall make a copy of the documents
8 available to the person who produced them.

9 (5) A person is not entitled to refuse to produce
10 documents ordered to be produced under this section on
11 the grounds that the document might tend to incriminate
12 that person or make such person liable to a penalty."

13 Section 166. Title 11 of the Code of the Federated States of
14 Micronesia, as amended, is hereby further amended by adding a new
15 section 972 of chapter 9 to read as follows:

16 "Section 972. Evidential value of information.

17 (1) Where a person produces a document pursuant to an
18 order issued under this act, the production of the
19 document, or any information, document, or thing
20 obtained as a direct or indirect consequence of the
21 production of the document, is not admissible against
22 that person in any criminal proceedings except
23 proceedings under section 973 of this title.

24 (2) For the purposes of subsection (1) of this
25 section, proceedings on an application for a restraining
26 order, a confiscation order or a pecuniary penalty order

1 are not criminal proceedings."

2 Section 167. Title 11 of the Code of the Federated States of
3 Micronesia, as amended, is hereby further amended by adding a new
4 section 973 of chapter 9 to read as follows:

5 "Section 973. Failure to comply with a production
6 order.

7 (1) Where a person is required by a production order
8 issued under this act, to produce a document to a police
9 officer, the person is guilty of a felony offense if the
10 person knowingly:

11 (a) violates the order without reasonable cause;
12 or

13 (b) in purported compliance with the order,
14 produces or makes available a document known to the
15 person to be false or misleading in a material way, and
16 does not so indicate to the police officer and provide
17 to the police officer any correct information of which
18 the person is in possession.

19 (2) The offense established by subsection (1) of this
20 section is a felony offense, punishable by imprisonment
21 for a maximum of five (5) years or a maximum fine of
22 \$50,000, or both; PROVIDED, however, in the case of a
23 corporation, company, commercial enterprise, commercial
24 entity or other legal person, the maximum fine shall be
25 increased to \$250,000."

26 Section 168. Title 11 of the Code of the Federated States of

1 Micronesia, as amended, is hereby further amended by adding a new
2 section 974 of chapter 9 to read as follows:

3 "Section 974. Production orders in relation to foreign
4 offenses. Where a foreign state requests assistance to
5 locate or seize property suspected to be tainted
6 property in respect of an offense within its
7 jurisdiction, the provisions of section 971 of this
8 title apply, with the necessary changes in points of
9 detail, provided that the Secretary has, pursuant to
10 applicable law, authorized the giving of assistance to
11 the foreign state."

12 Section 169. Title 11 of the Code of the Federated States of
13 Micronesia, as amended, is hereby further amended by adding a new
14 section 975 of chapter 9 to read as follows:

15 "Section 975. Power to search for and seize documents
16 relevant to locating property.

17 A police officer may:

- 18 (1) enter upon land or upon or into premises;
19 (2) search the land or premises for any document of
20 the type described in section 971(1) of this title; and
21 (3) seize any document found in the course of that
22 search that the police officer has probable cause to
23 believe to be a relevant document in relation to a
24 serious offense, provided that the entry, search and
25 seizure is made:

- 26 (a) with the consent of the occupier of the land

1 or the premises; or

2 (b) under a warrant issued under section 976 or
3 951 of this title, or under title 12 of the Code of the
4 Federated States of Micronesia."

5 Section 170. Title 11 of the Code of the Federated States of
6 Micronesia, as amended, is hereby further amended by adding a new
7 section 976 of chapter 9 to read as follows:

8 "Section 976. Search warrant for location of documents
9 relevant to locating property.

10 (1) Where:

11 (a) a defendant has been charged or convicted of
12 a serious offense; or

13 (b) the police officer has probable cause to
14 believe that there is, or may be within the next seventy
15 two (72) hours, upon any land or upon or in any
16 premises, a document of the type described in section
17 971(1) of this title in relation to the offense, the
18 police officer may make application supported by sworn
19 affidavit to a justice for a search warrant in respect
20 of that land or those premises.

21 (2) Where an application is made under subsection (1)
22 of this section for a warrant to search land or
23 premises, the justice may, subject to subsection (4) of
24 this section issue a warrant authorizing a police
25 officer (whether or not named in the warrant), with such
26 assistance and by such force as is necessary and

1 reasonable:

2 (a) to enter upon the land or in or upon any
3 premises and to search the land or premises for property
4 of that kind; and

5 (b) to seize property found in the course of the
6 search that the police officer has probable cause to
7 believe to be property of that kind.

8 (3) A justice shall not issue a warrant under
9 subsection (2) of this section unless the justice is
10 satisfied that:

11 (a) a production order has been issued in respect
12 of the document and has not been complied with;

13 (b) a production order in respect of the document
14 would be unlikely to be effective;

15 (c) the investigation for the purposes of which
16 the search warrant is being sought might be seriously
17 prejudiced if the police officer does not gain immediate
18 access to the document without any notice to any person;
19 or

20 (d) the document involved cannot be identified or
21 described with sufficient particularity to enable a
22 production order to be obtained.

23 (4) A warrant issued under this section shall state:

24 (a) the purpose for which it is issued, including
25 a reference to the nature of the relevant offense;

26 (b) a description of the kind of documents

1 authorized to be seized;

2 (c) a time at which the warrant ceases to be in
3 force; and

4 (d) whether entry is authorized to be made at any
5 time of the day or night or during specified hours.

6 (5) If during the course of searching under a warrant
7 issued under this section, a police officer finds:

8 (a) a document of the type described in section
9 971(1) of this title, that the police officer believes
10 on probable cause to relate to the relevant offense, or
11 to another serious offense; or

12 (b) any thing the police officer believes on
13 probable cause will afford evidence as to the commission
14 of a serious offense, the police officer may seize that
15 property or thing and the warrant shall be deemed to
16 authorize such seizure."

17 Section 171. Title 11 of the Code of the Federated States of
18 Micronesia, as amended, is hereby further amended by adding a new
19 section 977 of chapter 9 to read as follows:

20 "Section 977. Search warrants in relation to foreign
21 offenses. Where a foreign state requests assistance to
22 locate or seize documents of a type described in section
23 971(1) of this title relating to an offense within its
24 jurisdiction, the provisions of section 976 of this
25 title apply, with the necessary changes in points in
26 detail, provided that the Secretary has, pursuant to

1 applicable law, authorized the giving of assistance to
2 the foreign state."

3 Section 172. Title 11 of the Code of the Federated States of
4 Micronesia, as amended, is hereby further amended by adding a new
5 section 978 of chapter 9 to read as follows:

6 "Section 978. Monitoring orders.

7 (1) A police officer may apply, ex parte and in
8 writing, to a justice for a monitoring order directing a
9 financial institution to give information to a police
10 officer. An application under this section shall be
11 supported by an affidavit.

12 (2) A monitoring order:

13 (a) may direct the financial institution to
14 disclose information obtained by the institution about
15 transactions conducted through an account held by a
16 particular person with the institution;

17 (b) shall not have retrospective effect; and

18 (c) shall only apply for a period of a maximum of
19 three (3) months from the date of making.

20 (3) A justice shall not issue a monitoring order
21 unless the justice is satisfied that there is probable
22 cause to believe that the person in respect of whose
23 account the order is sought:

24 (a) has committed or was involved in the
25 commission, or is about to commit or be involved in the
26 commission of a serious offense; or

1 (b) has benefited directly or indirectly, or is
2 about to benefit directly or indirectly from the
3 commission of a serious offense.

4 (4) A monitoring order shall specify:

5 (a) the name or names in which the account is
6 believed to be held; and

7 (b) the type of information that the institution
8 is required to give.

9 (5) Where a financial institution, which has been
10 given notice of a monitoring order, knowingly:

11 (a) violates the order; or

12 (b) provides false or misleading information in
13 purported compliance with the order, the institution
14 commits a felony offense, punishable by imprisonment for
15 a maximum of five (5) years or a maximum fine of
16 \$50,000, or both; PROVIDED, however, in the case of a
17 corporation, company, commercial enterprise, commercial
18 entity or other legal person, the maximum fine shall be
19 increased to \$250,000."

20 Section 173. Title 11 of the Code of the Federated States of
21 Micronesia, as amended, is hereby further amended by enacting a
22 new section 979 of chapter 9 to read as follows:

23 "Section 979. Monitoring orders not to be disclosed.

24 (1) A financial institution that is, or has been
25 subject to a monitoring order shall not knowingly
26 disclose the existence or operation of the order to any

1 person except:

2 (a) an officer or agent of the institution for
3 the purpose of ensuring compliance with the order;

4 (b) a legal adviser for the purpose of obtaining
5 legal advice or representation in respect of the order;
6 or

7 (c) a police officer authorized in writing to
8 receive the information.

9 (2) A person described in sections (1) (a), (b) or (c)
10 of this section shall not knowingly disclose the
11 existence or operation of a monitoring order except to
12 another such person, and may do so only for the purposes
13 of the performance of the person's duties or functions.

14 (3) Violation of this section is a felony offense,
15 punishable by imprisonment for a maximum of five (5)
16 years or a maximum fine of \$50,000, or both; PROVIDED,
17 however, in the case of a corporation, company,
18 commercial enterprise, commercial entity or other legal
19 person, the maximum fine shall be increased to \$250,000.

20 (4) Nothing in this section prevents the disclosure of
21 information concerning a monitoring order for the
22 purposes of, or in connection with, legal proceedings or
23 in the course of proceedings before a court, provided
24 that nothing in this section shall be construed as
25 requiring a legal adviser to disclose to any court the
26 existence or operation of a monitoring order."

1 Section 174. Title 11 of the Code of the Federated States of
2 Micronesia, as amended, is hereby further amended by enacting a
3 new chapter 10 entitled "Federated States of Micronesia Weapons
4 Control".

5 Section 175. Title 11 of the Code of the Federated States of
6 Micronesia, as amended, is hereby further amended by adding a new
7 section 1002 of chapter 10 to read as follows:

8 "Section 1002. General prohibition. No person shall
9 manufacture, purchase, sell, possess or carry any
10 firearm, dangerous device, or ammunition other than as
11 hereinafter provided."

12 Section 176. Title 11 of the Code of the Federated States of
13 Micronesia, as amended, is hereby further amended by adding a new
14 section 1003 of chapter 10 to read as follows:

15 "Section 1003. Exemptions from provisions of chapter.

16 This chapter shall not apply to:

17 (1) law enforcement officers while engaged in official
18 duty except to the extent that particular provisions of
19 this chapter are expressly made applicable to them;

20 (2) firearms which are in unserviceable condition and
21 which are incapable of being fired or discharged and
22 which are kept as curios, ornaments or for their
23 historical significance or value;

24 (3) weapons or other dangerous devices which are not
25 firearms and which are kept as ornaments, curios, or
26 objects of historical or archeological interest;

1 provided, that the article or articles referred to
 2 herein are kept or displayed only in private homes,
 3 museums, or in connection with public exhibitions;

4 (4) persons in the Armed Forces of the United States,
 5 whenever such persons are engaged on official duty
 6 except to the extent that particular provisions of this
 7 chapter are expressly made applicable to them;

8 (5) persons designated from time to time by the
 9 Secretary of the Department of Justice (hereinafter
 10 referred to as the "Secretary" in this act), where such
 11 exemption is in the best interest of the National
 12 Government; provided, however, that the Secretary shall
 13 define the time, manner and purpose of the exemption,
 14 and limit the size and type of weapons which may be used
 15 by such persons."

16 Section 177. Title 11 of the Code of the Federated States of
 17 Micronesia, as amended, is hereby further amended by adding a new
 18 section 1004 of chapter 10 to read as follows:

19 "Section 1004. Definitions.

20 (1) 'Automatic weapon' means a weapon of any
 21 description irrespective of size, by whatever name
 22 designated or known, loaded or unloaded, from which may
 23 be repeatedly or automatically discharged a number of
 24 bullets contained in a magazine, ribbon or other
 25 receptacle, by one continuous movement of the trigger or
 26 firing mechanism.

1 (2) 'Carry' means having on one's person or in a motor
2 vehicle or other conveyance.

3 (3) 'Dangerous device' means any explosive, incendiary
4 or poison gas bomb, grenade, mine or similar device,
5 switch or gravity blade knife, blackjack, sandbag,
6 metal, wooden or shark's tooth knuckles, dagger, any
7 instrument designed or redesigned for use as a weapon,
8 or any other instrument which can be used for the
9 purpose of inflicting bodily harm and which under the
10 circumstances of its possession serves no lawful
11 purpose.

12 (4) 'Department of Justice' means the Federated States
13 of Micronesia Department of Justice.

14 (5) 'Firearm' means any device, by whatever name
15 known, which is designed or may be converted to expel or
16 hurl a projectile or projectiles by the action of an
17 explosion, a release, or an expansion of gas, including
18 but not limited to guns, except a device designed or
19 redesigned for use solely as a signaling, line throwing,
20 spearfishing, or industrial device, or a device which
21 hurls a projectile by means of the release or expansion
22 of carbon dioxide or air.

23 (6) 'Gun' means a handgun or long gun.

24 (7) 'Handgun' means a pistol or revolver with an
25 overall length of less than twenty-six inches.

26 (8) 'Law Enforcement Officer' means an employee of a

1 national or state law enforcement agency authorized to
 2 enforce the laws of the National or State Governments.
 3 Employees of municipal law enforcement agencies may be
 4 included for the purposes of this chapter, at the
 5 discretion of the Secretary, upon a showing that
 6 municipal law enforcement officers meet the training
 7 requirements for National or State law enforcement
 8 officers.

9 (9) 'Long gun' means a rifle with one or more barrels
 10 more than eighteen inches in length.

11 (10) 'Person' means any natural person, corporation,
 12 partnership, or other business entity.

13 (11) 'Semi-automatic weapon' means a weapon of any
 14 description irrespective of size, by whatever name
 15 designated or known, loaded or unloaded, from which may
 16 be repeatedly or automatically discharged a number of
 17 bullets contained in a magazine, ribbon or other
 18 receptacle by a like number of movements of the trigger
 19 or firing mechanism without recocking or resetting the
 20 trigger or firing mechanism.

21 (12) 'Transfer' means sale, gift, purchase or any other
 22 means by which ownership or temporary rights of use and
 23 control are conveyed or shifted from one person to
 24 another."

25 Section 178. Title 11 of the Code of the Federated States of
 26 Micronesia, as amended, is hereby further amended by adding a new

1 section 1005 to chapter 10 to read as follows:

2 "Section 1005. Identification cards required; Issuance.

3 (1) No person shall acquire or possess any firearm,
 4 dangerous device, or ammunition unless he or she holds
 5 an identification card issued pursuant to this chapter.
 6 The identification card is evidence of the holder's
 7 eligibility to possess and use or carry firearms,
 8 dangerous devices, or ammunition. A person need not own
 9 or possess any firearm, dangerous device, or ammunition
 10 to apply for and have issued to him an identification
 11 card.

12 (2) Identification cards shall be issued only by the
 13 Department of Justice pursuant to regulations made by
 14 the Department of Justice in the manner which is or may
 15 be provided by law. The identification card shall have
 16 on its face all of the following:

- 17 (a) the name and address of the holder;
- 18 (b) the sex, height, and weight of the holder;
- 19 (c) the birth date of the holder;
- 20 (d) the date of expiration for the card, which
 21 shall be two years from the date of issue;
- 22 (e) a photograph of the holder taken within ten
 23 days prior to issuance;
- 24 (f) an endorsement setting forth the extent of
 25 the holder's eligibility to possess, use, and carry
 26 firearms, dangerous devices, or ammunition; and

1 (g) the number of the identification card.

2 (3) An applicant for the issuance or renewal of an
 3 identification card shall make application therefor on a
 4 form approved by the Department of Justice and shall
 5 supply such information as may be necessary to afford
 6 the issuing agency reasonable opportunity to ascertain
 7 the facts required to appear on the face of the
 8 identification card, and to determine whether the
 9 applicant complies with all requirements of this chapter
 10 to possess and use, or carry firearms, dangerous
 11 devices, or ammunition, as the case may be. Such
 12 information shall include a complete description and
 13 serial number, if any, of any firearm or dangerous
 14 device the applicant owns or possesses.

15 (4) No identification cards shall be issued until
 16 fifteen days after application therefor, and unless the
 17 issuing agency is satisfied that the applicant may
 18 lawfully possess and use, or carry firearms, dangerous
 19 devices, or ammunition of the type or types enumerated
 20 on the identification card; provided, however, that the
 21 Secretary may issue an identification card prior to the
 22 expiration of fifteen days where such issuance is in the
 23 best interest of the National Government. Unless the
 24 application for use and possession is denied, the
 25 identification card shall be issued within sixty days
 26 from the date of application. An identification card

1 issued pursuant to this section shall be valid for two
2 years from the date of its issuance unless it has been
3 revoked. A valid identification card issued pursuant to
4 this section may be renewed biannually upon application
5 by the holder made on the form approved by the
6 Department of Justice.

7 (5) No person shall be issued an identification card
8 if he or she has been:

9 (a) acquitted of any criminal charge by reason of
10 insanity;

11 (b) adjudicated mentally incompetent;

12 (c) treated in a hospital for mental illness,
13 drug addiction, or alcoholism;

14 (d) convicted of a crime of which actual or
15 attempted personal injury or death is an element;

16 (e) convicted of a crime in connection with which
17 firearms or dangerous devices were used or found in his
18 or her possession; or

19 (f) convicted of a crime of which the use,
20 possession, or sale of narcotics or dangerous drugs is
21 an element.

22 (6) No person shall be issued an identification card
23 unless that person is at least twenty-one (21) years of
24 age at the time of application therefor.

25 (7) No person shall be issued an identification card
26 if he or she has a physical condition or impairment

1 which makes him unable to use a firearm or dangerous
2 device with proper control.

3 (8) Any person suffering from a physical or mental
4 defect, condition, illness, or impairment which would
5 make him ineligible for an identification card pursuant
6 to this section may submit the certificate of a
7 physician licensed to practice in the Federated States
8 of Micronesia to the issuing agency or officer. If the
9 certificate states that it is the subscribing
10 physician's best opinion that the defect, condition,
11 illness, or impairment does not make the applicant
12 incapable of possessing and using a firearm or dangerous
13 device without danger to the public safety, the
14 identification card may be issued. But no such card
15 shall be valid for a period longer than six months.

16 (9) Any person who is ineligible for an identification
17 card by reason of conviction of a crime may be issued
18 such a card if his or her most recent discharge from
19 probation or parole or the termination of his or her
20 most recent sentence, whichever is later, is more than
21 ten years prior to the time of application for the
22 identification card and if the issuing agency finds that
23 his or her record, taken as a whole, does not indicate
24 that his or her possessing and using, or carrying, a
25 firearm or dangerous device, as the case may be, are not
26 likely to constitute a special danger to the public

1 safety; provided, that if the crime which renders him
2 ineligible for an identification card is solely the
3 failure to have an identification card issued to him,
4 then the reinstatement to eligibility pursuant to this
5 subsection shall occur five years after the date of his
6 or her sentencing.

7 (10) A duplicate identification card may be issued to
8 the holder of a lost, destroyed, or defaced
9 identification card upon proof of such loss,
10 destruction, or defacement as the Department of Justice
11 may require, upon payment of the fee required by section
12 1030 of this chapter, and upon surrender of any
13 remaining portion of the original card. Notice shall be
14 given to the Department of Justice by the holder within
15 forty-eight hours of his or her discovery of such loss,
16 defacement, or destruction. The holder shall notify the
17 Department of Justice of any change of name or address
18 from those appearing upon the identification card within
19 forty-eight hours of such change.

20 (11) A person who is neither a citizen nor resident of
21 the Federated States of Micronesia shall not be eligible
22 for an identification card, except upon receiving
23 special permission from the Secretary."

24 Section 179. Title 11 of the Code of the Federated States of
25 Micronesia, as amended, is hereby further amended by adding a new
26 section 1006 to chapter 10 to read as follows:

1 "Section 1006. Identification cards required; prima
 2 facie evidence of possession.

3 (1) No person shall purchase, possess, or use a
 4 firearm, dangerous device, or ammunition unless he or
 5 she is the holder of an identification card issued
 6 pursuant to this chapter evidencing the eligibility of
 7 such person to purchase, possess, and use a firearm,
 8 dangerous device or ammunition. Such person shall be at
 9 least 21 years of age.

10 (2) Where a firearm, dangerous device, or ammunition
 11 is found in a vehicle or vessel, it shall be prima facie
 12 evidence that such firearm, dangerous device, or
 13 ammunition is in the possession of the occupant if there
 14 is but one. If there is more than one occupant, it
 15 shall be prima facie evidence that it is in the
 16 possession of all, except under the following
 17 circumstances:

18 (a) where it is found upon the person of one of
 19 the occupants;

20 (b) where the vehicle or vessel is not a stolen
 21 one and the firearm, dangerous device, or ammunition is
 22 out of view in a glove compartment, automobile trunk, or
 23 other enclosed customary depository, in which case it is
 24 prima facie evidence that such firearm, dangerous
 25 device, or ammunition is in the possession of the
 26 occupant or occupants who own or have authority to

1 operate the vehicle or vessel;

2 (c) where, in the case of a taxicab, the firearm,
3 dangerous device, or ammunition is found in the
4 passengers' portion of the vehicle, it shall be prima
5 facie evidence that it is in the possession of all the
6 passengers, if there are any, and, if not, that it is in
7 the possession of the driver."

8 Section 180. Title 11 of the Code of the Federated States of
9 Micronesia, as amended, is hereby further amended by adding a new
10 section 1007 to chapter 10 to read as follows:

11 "Section 1007. Carrying firearms. No person shall
12 carry a firearm unless he or she has a valid
13 identification card and is carrying the firearm unloaded
14 in a closed case or other securely wrapped or closed
15 package or container, or locked in the trunk of his or
16 her vehicle while en route to or from a target range or
17 area where he or she hunts or takes part in other sports
18 involving firearms, or carries the firearm in plain
19 sight on his or her person while actively engaged in
20 hunting or sports involving the use of firearms."

21 Section 181. Title 11 of the Code of the Federated States of
22 Micronesia, as amended, is hereby further amended by adding a new
23 section 1008 to chapter 10 to read as follows:

24 "Section 1008. New residents, temporary residents, and
25 visitors in the Federated States of Micronesia.

26 Visitors, new residents, and temporary residents in the

1 Federated States of Micronesia shall not import,
2 transport, purchase, use, or possess any firearm,
3 dangerous device or ammunition in the Federated States
4 of Micronesia without an identification card issued
5 pursuant to this chapter. Any person who possesses any
6 firearms, dangerous devices, or ammunition shall, before
7 or immediately upon his or her entrance into the
8 Federated States of Micronesia, turn it in to the
9 Secretary, or his or her duly designated representative.
10 Such firearm, dangerous device, or ammunition shall be
11 returned to such person upon his or her being issued an
12 identification card pursuant to the provisions of this
13 chapter or upon his or her departure from the Federated
14 States of Micronesia."

15 Section 182. Title 11 of the Code of the Federated States of
16 Micronesia, as amended, is hereby further amended by adding a new
17 section 1009 to chapter 10 to read as follows:

18 "Section 1009. Law enforcement officers.

19 (1) Possession, use, and carriage of firearms,
20 ammunition and dangerous devices by law enforcement
21 officers derives from the laws governing the powers,
22 functions and organization of the police and other
23 organized forces of peace officers. Eligibility of law
24 enforcement officers to possess, use, and carry
25 firearms, ammunition or dangerous devices while on duty
26 is not subject to the holding of identification cards or

1 any other qualifications prescribed in this chapter.
 2 Regulations issued pursuant to section 1029 of this
 3 chapter may include minimum qualifications for any law
 4 enforcement officer authorized to carry firearms,
 5 ammunition or dangerous devices while on duty.

6 (2) Transfer of any firearm from or to a law
 7 enforcement officer or agency shall, except as provided
 8 in subsection (1) of this section, be subject to the
 9 provisions of this chapter and regulations made pursuant
 10 thereto.

11 (3) The head of any national, state, or municipal law
 12 enforcement agency of the Federated States of Micronesia
 13 shall furnish to the Department of Justice the names,
 14 addresses, ranks, and badge numbers or similar
 15 identification of each person on his or her force who is
 16 authorized to possess, use, and carry firearms in the
 17 course of his or her official duty. Upon the occurrence
 18 of any changes in personnel to whom this subsection
 19 applies, the head of the law enforcement agency shall
 20 inform the Department of Justice promptly of the change.

21 (4) Whenever a law enforcement officer is not engaged
 22 in official duties, this chapter shall be applicable to
 23 him in the same manner and to the same extent as to any
 24 other person."

25 Section 183. Title 11 of the Code of the Federated States of
 26 Micronesia, as amended, is hereby further amended by adding a new

1 section 1010 to chapter 10 to read as follows:

2 "Section 1010. Licenses for transfer - requirements.

3 (1) No dealer, manufacturer or wholesaler shall
4 transfer firearms, dangerous devices or ammunition
5 except pursuant to a license therefor as provided in
6 this section.

7 (2) Any person, firm, corporation, association, or
8 other entity proposing to engage in the business of
9 selling firearms, ammunition, and dangerous devices at
10 retail shall apply for a dealer's license. The
11 application shall be on a form approved by the
12 Department of Justice and shall contain the following
13 information:

14 (a) the name and address of the applicant,
15 including the address of each separate location within
16 the Federated States of Micronesia at which the
17 applicant proposes to do business pursuant to the
18 license;

19 (b) if the applicant is a partnership or
20 association, the names and addresses of the partners or
21 associates, or if the applicant is a corporation, the
22 names and addresses of the officers and directors; and

23 (c) such other information bearing on the
24 applicant's ability to operate the business in a manner
25 consonant with the public safety as the Department of
26 Justice may require."

1 Section 184. Title 11 of the Code of the Federated States of
 2 Micronesia, as amended, is hereby further amended by adding a new
 3 section 1011 of chapter 10 to read as follows:

4 "Section 1011. Dealer's license - issuance and renewal.

5 (1) Upon receipt of a proper application and payment
 6 of the prescribed fee, the Department of Justice shall,
 7 within sixty days, issue a dealer's license to an
 8 applicant, if he or she is found to be eligible therefor
 9 pursuant to this chapter and any applicable regulations
 10 of the Department of Justice. Such regulations shall
 11 place a reasonable limit on the number of dealer's
 12 licenses available. The license shall list the types of
 13 firearms, ammunition, and dangerous devices which the
 14 dealer has been authorized to offer for sale.

15 (2) A license issued pursuant to this section shall be
 16 valid for one year from the date of its issuance, unless
 17 cancelled sooner, suspended, or revoked. A license
 18 shall bear the expiration date thereof on its face.

19 (3) A license issued pursuant to this section may be
 20 renewed annually upon application by the holder made on
 21 a form approved by the Department of Justice.
 22 Eligibility for renewal shall be on the same terms and
 23 conditions as for an original license, except that
 24 renewal also may be denied on account of violation of
 25 this chapter or regulations of the Department of Justice
 26 made pursuant thereto or for any conduct in the

1 operation of the applicant's business which gives the
2 Department of Justice grounds to believe that the
3 applicant will no longer operate in a manner consonant
4 with the public safety."

5 Section 185. Title 11 of the Code of the Federated States of
6 Micronesia, as amended, is hereby further amended by adding a new
7 section 1012 of chapter 10 to read as follows:

8 "Section 1012. Dealer's license - conduct of dealer's
9 business. The holder of a dealer's license shall:

10 (1) display his or her license in a conspicuous place
11 at all times at the establishment described in the
12 license. If a dealer has more than one place of
13 business at which he or she sells firearms, dangerous
14 devices, and ammunition or any of them, he or she shall
15 display in the same manner a certified copy of his or
16 her license at each such additional place of business;

17 (2) keep the records and file the reports required by
18 this chapter and regulations made pursuant thereto;

19 (3) display no firearms, dangerous devices or
20 ammunition in any place where they can be seen from
21 outside the premises;

22 (4) keep all firearms, dangerous devices and
23 ammunition in a securely locked place at all times
24 except when they are actually being shown to a customer
25 or prospective customer or when actually being repaired
26 or otherwise worked on;

1 (5) permit only employees who are holders of
2 identification cards making them eligible to purchase,
3 possess and use firearms, ammunition, or dangerous
4 devices, to have access to firearms, dangerous devices,
5 or ammunition."

6 Section 186. Title 11 of the Code of the Federated States of
7 Micronesia, as amended, is hereby further amended by adding a new
8 section 1013 of chapter 10 to read as follows:

9 "Section 1013. Records and reports by dealers.

10 (1) Every licensed dealer shall maintain records
11 containing an inventory of firearms, dangerous devices,
12 and ammunition or any of them received, together with
13 the name and address of the person from whom they were
14 received, and the manufacturer, type and serial number
15 of each firearm and dangerous device, the name and
16 address of the person to whom it was transferred, the
17 identification card number of such person, the
18 manufacturer, type and serial number of the gun or
19 dangerous device transferred and the date of transfer.
20 Such records shall be available for inspection at all
21 reasonable times by the Secretary, and his or her duly
22 designated representatives. Such records shall be
23 retained for at least five years.

24 (2) Every dealer, at the time of any transfer of any
25 firearm or dangerous device to any person other than a
26 licensed dealer shall, within twenty four hours of the

1 transfer, supply the following information to the
2 Department of Justice on a form approved by it:

3 (a) the name, address and license number of the
4 dealer;

5 (b) the manufacturer, type, and serial number of
6 firearm or dangerous device transferred. No firearm
7 shall be transferred which does not have a serial number
8 or from which the serial number has been removed,
9 defaced, or altered;

10 (c) the name, address and identification card
11 number of the transferee."

12 Section 187. Title 11 of the Code of the Federated States of
13 Micronesia, as amended, is hereby further amended by adding a new
14 section 1014 of chapter 10 to read as follows:

15 "Section 1014. Repair of firearms.

16 (1) No person, other than a dealer or manufacturer
17 licensed pursuant to this chapter shall repair firearms
18 or accept the same for repair.

19 (2) No person shall accept any firearms for repair
20 unless he or she is shown an identification card
21 evidencing eligibility of the holder to possess and use
22 a firearm of the type offered for repair. Prior to
23 returning any such firearm, the manufacturer or dealer
24 shall make and keep a record identical with that
25 required for the purchase of a firearm pursuant to
26 section 1013 of this chapter, and shall maintain such

1 record for at least one year.

2 (3) Nothing in this section shall be construed to
3 prohibit the repair or maintenance of a firearm by the
4 owner thereof."

5 Section 188. Title 11 of the Code of the Federated States of
6 Micronesia, as amended, is hereby further amended by adding a new
7 section 1015 of chapter 10 to read as follows:

8 "Section 1015. Transfer of ammunition.

9 (1) No person may transfer ammunition, unless he or
10 she is a manufacturer, wholesaler or dealer licensed
11 pursuant to this chapter. If the transfer is other than
12 to another manufacturer, wholesaler, or dealer, the
13 transfer shall not be made until the transferor has
14 ascertained that the transferee is the holder of an
15 identification card evidencing eligibility to possess
16 and use a firearm of the type for which the ammunition
17 is suited. Upon transfer the transferor shall record
18 the quantity, type and caliber or gauge transferred, the
19 name and address of the transferee and the number of the
20 transferee's identification card.

21 (2) No transferee of ammunition shall transfer it to
22 any person other than a dealer licensed pursuant to this
23 chapter. Upon receipt of ammunition, the dealer shall
24 make and keep all records with respect to the ammunition
25 in the manner required by this section for ammunition
26 sold by him."

1 Section 189. Title 11 of the Code of the Federated States of
2 Micronesia, as amended, is hereby further amended by adding a new
3 section 1016 of chapter 10 to read as follows:

4 "Section 1016. Transfer of firearms and dangerous
5 devices. No person other than a manufacturer,
6 wholesaler, or dealer licensed pursuant to this chapter
7 shall transfer a firearm or dangerous device to any
8 person other than a manufacturer, wholesaler, or dealer
9 without first ascertaining that the transferee is the
10 holder of an identification card issued pursuant to this
11 chapter. Prior to any such transfer, the transferor
12 shall furnish to the Department of Justice in person or
13 by registered or certified mail, return receipt
14 requested, a properly completed form approved by the
15 Department of Justice providing information equivalent
16 to that required to be furnished by a dealer upon the
17 transfer by him of a firearm or dangerous device."

18 Section 190. Title 11 of the Code of the Federated States of
19 Micronesia, as amended, is hereby further amended by adding a new
20 section 1017 of chapter 10 to read as follows:

21 "Section 1017. Secured transactions in firearms.

22 (1) No person, other than a licensed dealer, shall
23 receive a firearm as a pledge or pawn, or in any other
24 manner as security.

25 (2) A dealer receiving a firearm as a pledge, pawn or
26 otherwise as security, shall record promptly:

- 1 (a) the date of receipt;
- 2 (b) the full description of the item or items
- 3 received, including the manufacturer, type, and serial
- 4 number or numbers, if any;
- 5 (c) the name and address of the person making the
- 6 pledge, pawn, or other deposit as security; and
- 7 (d) the number of said person's identification
- 8 card.

9 (3) No dealer shall accept the pledge, pawn, or other

10 deposit as security unless the person making the same

11 exhibits an identification card evidencing his or her

12 entitlement to possess and use a gun of the type

13 involved.

14 (4) Upon the return or other disposition of the

15 firearm in his or her possession pursuant to this

16 section, the dealer shall make a record of the return or

17 other disposition, including the date thereof and the

18 name and address of the person to whom the firearm was

19 returned or disposed. No firearm shall be returned or

20 disposed of to any person who, at the time of such

21 return or disposition, does not exhibit a valid

22 identification card issued in his or her own name and

23 entitling him to possess and use the firearm involved."

24 Section 191. Title 11 of the Code of the Federated States of

25 Micronesia, as amended, is hereby further amended by adding a new

26 section 1018 of chapter 10 to read as follows:

1 "Section 1018. Manufacturer's and wholesaler's license.

2 (1) No person shall manufacture or deal in firearms,
3 dangerous devices, or ammunition at wholesale unless:

4 (a) he or she is the holder of a dealer's license
5 issued pursuant to section 1011 of this chapter; or

6 (b) he or she is the holder of a license issued
7 pursuant to this section.

8 (2) Any person proposing to manufacture or deal at
9 wholesale in firearms, dangerous devices, or ammunition,
10 which person is not the holder of a dealer's license,
11 shall make application for a manufacturer's or
12 wholesaler's license. Such application shall contain
13 the same information required for a dealer's license and
14 any additional information required by the Secretary, as
15 may be appropriate to administer this chapter. No
16 manufacturer's license or wholesaler's license shall
17 authorize transfer or delivery within the Federated
18 States of Micronesia except to a licensed dealer,
19 manufacturer, or wholesaler or to an authorized law
20 enforcement agency in the Federated States of Micronesia
21 or, subject to applicable laws of the Federated States
22 of Micronesia, for export.

23 (3) The Department of Justice shall issue, renew,
24 cancel, deny, suspend, or revoke manufacturers' and
25 wholesalers' licenses on the same terms and subject to
26 the same conditions as provided for dealers' licenses.

1 (4) Every manufacturer shall assign a unique serial
 2 number to each firearm he or she manufactures and shall
 3 inscribe such number in or on the firearm in such manner
 4 as will resist removal, alteration, defacement or
 5 obliteration. The Department of Justice may make
 6 regulations for the style of such serial numbers and for
 7 the manner of their inscription."

8 Section 192. Title 11 of the Code of the Federated States of
 9 Micronesia, as amended, is hereby further amended by adding a new
 10 section 1019 of chapter 10 to read as follows:

11 "Section 1019. Registry of firearms and ammunition.

12 (1) The Department of Justice shall maintain a
 13 registry of firearms. The records in the registry shall
 14 be kept permanently unless there is a record of the
 15 destruction of the gun.

16 (2) Records kept in the registry shall include all
 17 records required to be filed with the Department of
 18 Justice pursuant to this chapter, copies of all records
 19 filed with an agency or officer of local government
 20 pursuant to this chapter, and any records deposited with
 21 the Department of Justice pursuant to subsection (3) of
 22 this section.

23 (3) Any dealer, manufacturer, or wholesaler licensed
 24 pursuant to this chapter, upon his or her discontinuance
 25 of the licensed business or activity, shall transmit all
 26 records kept by him pursuant to this chapter to the

1 Department of Justice.

2 (4) Records relating to the transfer or repair of
3 firearms shall be kept by the Department of Justice for
4 a period of at least five years after transmittal.

5 (5) Records in the registry shall not be public
6 records. They shall be made available only to law
7 enforcement officers of the national, state and
8 municipal governments of the Federated States of
9 Micronesia, or at the discretion of the Department of
10 Justice, to law enforcement officers and agencies of
11 foreign governments."

12 Section 193. Title 11 of the Code of the Federated States of
13 Micronesia, as amended, is hereby further amended by adding a new
14 section 1020 of chapter 10 to read as follows:

15 "Section 1020. Cancellation, denial, suspension and
16 revocation of licenses.

17 (1) Any license issued pursuant to this chapter shall
18 be surrendered for cancellation immediately on the
19 discontinuance or termination of business or upon the
20 holder's discontinuing the manufacturing, selling,
21 acquisition for sale or repair of firearms, and the sale
22 of ammunition.

23 (2) The issuing officer or agency may deny, suspend or
24 revoke an identification card or a license issued
25 pursuant to this chapter for failure of the applicant or
26 holder to meet or continue to meet any of the

1 requirements for eligibility therefor, or for any
 2 violation of this chapter or regulations in force
 3 pursuant thereto.

4 (3) The Department of Justice by regulation shall make
 5 classifications of crimes and other violations of this
 6 chapter or regulations in force thereunder. Regulations
 7 made pursuant to this subsection shall set forth those
 8 crimes and violations for which identification cards and
 9 licenses may be suspended or revoked, and those for
 10 which the penalty must be revocation. Such regulations
 11 shall be of general application.

12 (4) Any person who, by reason of the suspension or
 13 revocation of his or her identification card, is no
 14 longer eligible to continue in possession of a firearm,
 15 dangerous device, or ammunition shall surrender any and
 16 all firearms, dangerous devices, and ammunition to the
 17 Secretary, or his or her duly designated representative,
 18 or shall dispose of the firearms, dangerous devices, and
 19 ammunition forthwith under the direction and supervision
 20 of the Secretary, or his or her duly designated
 21 representative. In the case of suspension of an
 22 identification card, the owner of the firearm, dangerous
 23 device, or ammunition may request that the Department of
 24 Justice keep same during the period of suspension and,
 25 except as herein provided, the firearm, dangerous
 26 device, or ammunition shall be restored to the owner

1 when he or she again becomes eligible to possess same
2 and requests return. Any firearm, dangerous device, or
3 ammunition in the possession of the Secretary, or his or
4 her duly designated representative, pursuant to this
5 subsection may be disposed of, without compensation to
6 the owner, upon revocation of the suspended
7 identification card or at the end of sixty days after
8 receipt or the date of termination of the suspension,
9 whichever is later. However, if proceedings in
10 connection with the suspension or revocation are not yet
11 finally determined, disposal shall not be until such
12 final determination has been made.

13 (5) Any denial, suspension, or revocation of an
14 identification card or a license shall be subject to
15 review by the Trial Division of the FSM Supreme Court
16 upon petition by the aggrieved person."

17 Section 194. Title 11 of the Code of the Federated States of
18 Micronesia, as amended, is hereby further amended by adding a new
19 section 1021 of chapter 10 to read as follows:

20 "Section 1021. Shipment and delivery of firearms,
21 dangerous devices, and ammunition.

22 (1) No person shall ship, transport or deliver any
23 firearm, dangerous device, or ammunition to anyone other
24 than a licensed manufacturer, wholesaler, dealer, or
25 person who possesses a valid identification card.

26 (2) Any person who ships, transports or delivers

1 firearms or dangerous devices to a manufacturer,
2 wholesaler, dealer, or person possessing an
3 identification card in the Federated States of
4 Micronesia shall, before delivery, furnish to the
5 Department of Justice an invoice listing his or her name
6 and address, the name and address of the manufacturer,
7 wholesaler, dealer, or person possessing the
8 identification card to whom such firearms or dangerous
9 devices are to be delivered, the place of origin of the
10 shipment, the number of firearms and dangerous devices
11 of each type, and the manufacturer and serial number of
12 each firearm and dangerous device in the shipment.

13 (3) Any person who ships, transports or delivers
14 ammunition to a manufacturer, wholesaler, dealer or
15 person possessing an identification card in the
16 Federated States of Micronesia shall, before delivery,
17 furnish to the Department of Justice an invoice listing
18 his or her name and address, the name and address of the
19 manufacturer, wholesaler, dealer, or person possessing
20 an identification card to whom the ammunition is to be
21 delivered, the place of origin of the shipment, and the
22 quantity of ammunition of each type in the shipment.

23 (4) If shipment is by common carrier, a copy of the
24 invoice required by subsections (2) and (3) of this
25 section shall also be delivered to the common carrier.
26 The common carrier shall deliver the invoice and any

1 said shipment to local law enforcement authorities who
 2 will verify the accuracy of the shipment, and compliance
 3 with this chapter, before delivery to the manufacturer,
 4 wholesaler, dealer, or person possessing an
 5 identification card. A copy of the invoice shall be
 6 left with the manufacturer, wholesaler, dealer, or
 7 person possessing an identification card at the time of
 8 delivery.

9 (5) If shipment is by other than common carrier, a
 10 copy of the invoice shall be furnished to the
 11 manufacturer, wholesaler, dealer, or person possessing
 12 an identification card at the time of delivery.

13 (6) No person shall ship, transport, or deliver
 14 firearms, dangerous devices, or ammunition via air
 15 without first complying with international regulations
 16 pertaining to air shipment of firearms, dangerous
 17 devices, or ammunition."

18 Section 195. Title 11 of the Code of the Federated States of
 19 Micronesia, as amended, is hereby further amended by adding a new
 20 section 1022 of chapter 10 to read as follows:

21 "Section 1022. Loss, destruction or theft of firearms,
 22 dangerous devices, or ammunition. Whoever owns or
 23 possesses a firearm, dangerous device, or ammunition
 24 shall, within twenty-four hours of discovery, notify the
 25 Department of Justice of the loss, theft, or destruction
 26 of any such firearm, dangerous device or ammunition,

1 and, after such notice, of any subsequent recovery
2 thereof."

3 Section 196. Title 11 of the Code of the Federated States of
4 Micronesia, as amended, is hereby further amended by adding a new
5 section 1023 of chapter 10 to read as follows:

6 "Section 1023. Prohibited acts. No person shall:

- 7 (1) knowingly remove, obliterate, or alter the
8 importer's or manufacturer's serial number of any
9 firearm;
- 10 (2) knowingly deface, alter, or destroy an
11 identification card;
- 12 (3) acquire, possess, or use any firearm silencer or
13 muffler;
- 14 (4) carry any gun or dangerous device while under the
15 influence of alcohol or narcotic or other disabling
16 drug;
- 17 (5) import, sell, transfer, give away, purchase,
18 possess or use any handgun, automatic weapon, rifle
19 larger than .22 caliber, shotgun larger than .410 gauge,
20 or any other firearm;
- 21 (6) board or attempt to board any commercial aircraft
22 while carrying any firearm, dangerous device, or
23 ammunition, either on his or her person or in his or her
24 luggage. Such firearm, dangerous device, or ammunition
25 shall be turned in prior to departure to an appropriate
26 official or to the pilot of the airline or aircraft

1 concerned, who shall keep a record of the name of the
2 person turning in such firearm, dangerous device, or
3 ammunition, and the type and quantity turned in. Upon
4 completion of such person's travel, the official of the
5 airline or pilot of the aircraft shall personally
6 deliver the article or articles turned in to the
7 Secretary, or his or her duly designated representative,
8 or another authorized law enforcement officer, at the
9 point of disembarkation. If the point of disembarkation
10 is in the Federated States of Micronesia, such person
11 may recover the article or articles turned in upon
12 either:

13 (a) presentation of a valid identification card
14 or license for such article or articles to the police
15 officer having custody thereof, or

16 (b) departure from the Federated States of
17 Micronesia; provided, however, that persons departing
18 the Federated States of Micronesia via commercial
19 aircraft shall be subject to the provisions of this
20 section;

21 (7) use or attempt to use any firearm, dangerous
22 device, or ammunition in connection with or in aid of
23 the commission of any crime against the laws of the
24 Federated States of Micronesia, except those set forth
25 under other provisions of this chapter."

26 Section 197. Title 11 of the Code of the Federated States of

1 Micronesia, as amended, is hereby further amended by adding a new
 2 section 1024 of chapter 10 to read as follows:

3 "Section 1024. Forfeiture. All firearms, dangerous
 4 devices, or ammunition unlawfully possessed, carried,
 5 used, shipped, transported or delivered into the
 6 Federated States of Micronesia are declared to be
 7 inimical to the public safety and are forfeited to the
 8 Federated States of Micronesia. When such forfeited
 9 articles are taken from any person, they shall be
 10 surrendered to the Department of Justice."

11 Section 198. Title 11 of the Code of the Federated States of
 12 Micronesia, as amended, is hereby further amended by adding a new
 13 section 1025 of chapter 10 to read as follows:

14 "Section 1025. Closing of establishments during
 15 emergencies. In case of emergency concerning the public
 16 safety declared by the President, pursuant to chapter 8
 17 of this title, all establishments dealing in guns,
 18 dangerous devices, or ammunition may be ordered closed
 19 and required to remain closed during the continuance of
 20 the emergency. During any such closure, any and all
 21 guns, dangerous devices, and ammunition belonging to or
 22 in the keeping of a closed establishment may be
 23 impounded."

24 Section 199. Title 11 of the Code of the Federated States of
 25 Micronesia, as amended, is hereby further amended by adding a new
 26 section 1026 of chapter 10 to read as follows:

1 "Section 1026. Registration of weapons possessed on
2 effective date of chapter.

3 (1) Any person having in his or her possession a
4 firearm or dangerous device on the effective date of
5 this chapter shall, within ninety days of such effective
6 date, furnish, on a form approved by the Department of
7 Justice, to the agency or officer authorized to receive
8 information concerning the transfer of firearms or
9 dangerous devices pursuant to this chapter, equivalent
10 information concerning any firearm or dangerous device
11 in his or her possession.

12 (2) If, prior to the expiration of the ninety day
13 period provided in subsection (1) of this section, the
14 firearm is transferred, the transferor shall comply with
15 the provisions of this chapter for furnishing of
16 information on transfer and need not comply with
17 subsection (1) of this section."

18 Section 200. Title 11 of the Code of the Federated States of
19 Micronesia, as amended, is hereby further amended by adding a new
20 section 1027 of chapter 10 to read as follows:

21 "Section 1027. Surrender of and compensation for
22 weapons held on effective date by ineligible persons.

23 Any person who possessed any firearm or dangerous device
24 in the Federated States of Micronesia prior to the
25 effective date of this chapter, and who is determined to
26 be ineligible to possess or is prohibited from

1 possessing such firearm or dangerous device under this
 2 chapter, shall tender such firearm or dangerous device
 3 to the Secretary or his or her duly designated
 4 representative within ninety days of the effective date
 5 of this chapter and be reasonably compensated therefor."

6 Section 201. Title 11 of the Code of the Federated States of
 7 Micronesia, as amended, is hereby further amended by adding a new
 8 section 1028 of chapter 10 to read as follows:

9 "Section 1028. Local laws. Nothing in this chapter
 10 shall be deemed to prevent any state or municipal
 11 government from further restricting, by local law or
 12 ordinance, the transfer, possession, use, or carriage of
 13 firearms, ammunition, or dangerous devices. This
 14 chapter shall supersede all state laws and municipal
 15 ordinances in conflict with this act."

16 Section 202. Title 11 of the Code of the Federated States of
 17 Micronesia, as amended, is hereby further amended by adding a new
 18 section 1029 of chapter 10 to read as follows:

19 "Section 1029. Regulations. The Secretary shall have
 20 power to issue, amend, and repeal regulations
 21 implementing this chapter in the manner which is or may
 22 be provided by law, as may be required by the public
 23 interest, safety, and welfare."

24 Section 203. Title 11 of the Code of the Federated States of
 25 Micronesia, as amended, is hereby further amended by adding a new
 26 section 1030 of chapter 10 to read as follows:

1 "Section 1030. Fees for licenses and identification
2 cards.

3 (1) The fees for issuance and renewal of licenses and
4 identification cards as required by this chapter shall
5 be as follows:

6 (a) for an identification card, \$5;

7 (b) for a dealer's license, \$150;

8 (c) for a manufacturer's license, \$500;

9 (d) for a wholesaler's license, \$500;

10 (e) for replacement of lost, destroyed, or
11 defaced identification card, \$5.

12 (2) Fees collected pursuant to the provisions of this
13 chapter shall be paid to the General Fund of the
14 Federated States of Micronesia."

15 Section 204. Title 11 of the Code of the Federated States of
16 Micronesia, as amended, is hereby further amended by adding a new
17 section 1031 of chapter 10 to read as follows:

18 "Section 1031. Penalties for violation of chapter.

19 (1) Any person convicted of a violation of section
20 1007 or section 1022 of this act shall be imprisoned for
21 not more than one year.

22 (2) Any person convicted of a violation of any other
23 provision of this chapter or any regulations issued
24 pursuant thereto shall be imprisoned for not more than
25 ten years, and shall be subject to confiscation of any
26 firearm, dangerous device, or ammunition, without

1 compensation, involved in a violation of this act. The
 2 holder of any dealer's license, or the manager or
 3 supervisor of employees of any establishment so
 4 licensed, or both, shall be liable for any violation of
 5 this act by his or her employee or agent committed in
 6 the course of the dealer's business, to the same extent
 7 as such employee or agent.

8 (3) It shall be an affirmative defense under
 9 subsection (1) of this section, that the defendant was
 10 issued a valid identification card before the time of
 11 his or her arrest, but neglected to have it upon his or
 12 her person."

13 Section 205. Title 11 of the Code of the Federated States of
 14 Micronesia, as amended, is hereby further amended by enacting a
 15 new chapter 12 entitled "Sentencing".

16 Section 206. Title 11 of the Code of the Federated States of
 17 Micronesia, as amended, is hereby further amended by adding a new
 18 section 1201 of chapter 12 to read as follows:

19 "Section 1201. Fines. A person who has been convicted
 20 of a national crime, in addition to any other punishment
 21 authorized by law, may be ordered to pay a fine not
 22 exceeding:

23 (1) \$100,000, when the conviction is for a crime
 24 punishable by a maximum of ten years imprisonment;

25 (2) \$50,000, when the conviction is for a crime
 26 punishable by a maximum of five years imprisonment;

1 (3) \$25,000, when the conviction is for a crime
2 punishable by a maximum of three years imprisonment;

3 (4) \$5,000, when the conviction is for a crime
4 punishable by a maximum of one year imprisonment;

5 (5) \$1,000, when the conviction is for a crime
6 punishable by a maximum of six months imprisonment;

7 (6) \$500, when the conviction is for a crime
8 punishable by a maximum of thirty days imprisonment;

9 (7) any higher amount equal to a maximum of double the
10 value of the loss suffered by the National Government or
11 double the pecuniary gain obtained from the crime by the
12 defendant; or

13 (8) any higher or lower amount specifically authorized
14 by statute."

15 Section 207. Title 11 of the Code of the Federated States of
16 Micronesia, as amended, is hereby further amended by adding a new
17 section 1202 of chapter 12 to read as follows:

18 "Section 1202. Authorized sentences. In any case where
19 the court finds that the ends of justice and the best
20 interests of the public and the defendant do not require
21 that the maximum sentence permitted by law be imposed on a
22 person convicted of a crime, the court may impose a
23 sentence consisting of any one or any combination of the
24 following; provided, however, that where a mandatory
25 minimum sentence is imposed by statute, the court may not
26 impose a term of imprisonment less than that minimum:

- 1 (1) imprisonment for a term less than the maximum
- 2 allowed by law;
- 3 (2) imposition of a fine as prescribed by law;
- 4 (3) suspension of a term of imprisonment and/or fine
- 5 upon such reasonable conditions as shall be set by the
- 6 court;
- 7 (4) suspension of imposition of sentence on such
- 8 reasonable conditions as shall be set by the court;
- 9 (5) probation for a period not exceeding the maximum
- 10 term of imprisonment to which the convicted person could
- 11 have been sentenced upon such reasonable conditions as
- 12 shall be set by the court;
- 13 (6) appropriate restitution, reparation, or service to
- 14 the victim of the crime or to his or her family;
- 15 (7) confinement to a particular geographical area; and
- 16 (8) a period of community service."

17 Section 208. Title 11 of the Code of the Federated States of
18 Micronesia, as amended, is hereby further amended by adding a new
19 section 1203 of chapter 12 to read as follows:

20 "Section 1203. Custom in sentencing. In determining the
21 sentence to be imposed, the court shall apply subsection
22 (6) of section 1202 wherever appropriate, and shall
23 otherwise give due recognition to the generally accepted
24 customs prevailing in the Federated States of Micronesia."

25 Section 209. Title 11 of the Code of the Federated States of
26 Micronesia, as amended, is hereby further amended by adding a new

1 section 1204 of chapter 12 to read as follows:

2 "Section 1204. Parole authorization. Any trial justice
3 of the National courts, or any duly appointed temporary
4 justice thereof, is hereby authorized to review a sentence
5 he or she imposed on a prisoner, after the prisoner has
6 served one third of his or her sentence, and, in the case
7 of any prisoner serving a life sentence or a sentence of
8 thirty or more years, after said prisoner has served ten
9 years of his or her sentence, for the purpose of
10 determining the eligibility for parole of said prisoner.
11 If the justice who sentenced a prisoner is not available
12 to review the sentence, the Chief Justice may designate
13 another justice for the review. The justice, in doing so,
14 shall request and consider the views of the prosecution,
15 the prisoner and his or her counsel, the victim or head of
16 the victim's family, and, when requested by the
17 prosecution or the prisoner, such community leaders as
18 clergy and municipal and village leaders. The justice
19 shall base his or her determination upon the prisoner's
20 behavior in prison and any factors indicative of the
21 prisoner's chances for a successful adaptation to
22 community life after release. The determination of the
23 justice may be appealed only on the grounds of abuse of
24 discretion resulting from the justice exceeding
25 constraints imposed by this statute, rules made pursuant
26 thereto, or the Constitution of the Federated States of

1 Micronesia. The Chief Justice may make rules to implement
2 this section, and in these rules may provide for a
3 reasonable minimum waiting period between successive
4 reviews of the same sentence."

5 Section 210. Notwithstanding this act becoming law pursuant to
6 section 211 hereof chapter 9 of this act shall take effect on July
7 1, 2001.

8 Section 211. This act shall become law upon approval by the
9 President of the Federated States of Micronesia or upon its becoming
10 law without such approval.

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1/25/01, ~~2000~~

/s/
Leo A. Falcam
President
Federated States of Micronesia