
A BILL FOR AN ACT

To amend title 11 of the Code of the Federated States of Micronesia, as amended, by enacting a new chapter 13 to establish an Anti-Terrorism Law for the Federated States of Micronesia, 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 enacting a
3 new chapter 13.

4 Section 2. Title 11 of the Code of the Federated States of
5 Micronesia is hereby amended by adding a new subchapter I of
6 chapter 13 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 1301 to read as follows:

10 "Section 1301. Short title. This chapter is known and
11 may be cited as the "Federated States of Micronesia
12 Anti-Terrorism Act."

13 Section 4. Title 11 of the Code of the Federated States of
14 Micronesia, as amended, is hereby further amended by adding a new
15 section 1302 to read as follows:

16 "Section 1302. Purpose. The purpose of this chapter is
17 to implement in the Federated States of Micronesia a
18 comprehensive legal framework criminalizing all forms of
19 terrorism and the financing of terrorism, whether
20 domestic or international in nature, consistent with

1 this nation's commitments under the international
2 terrorism conventions to which it is a party."

3 Section 5. Title 11 of the Code of the Federated States of
4 Micronesia, as amended, is hereby further amended by adding a new
5 section 1303 to read as follows:

6 "Section 1303. Definitions. The following terms shall
7 have the following meanings for the purposes of this
8 chapter:

9 (1) 'Alleged offender' means a person as to whom there
10 is sufficient evidence to determine prima facie that
11 such person has engaged, or has attempted to engage, in
12 terrorism.

13 (2) 'Biological agent' means any micro-organism,
14 virus, infectious substance or biological product that
15 may be engineered as a result of biotechnology, or any
16 naturally occurring or bio engineered component of any
17 such micro-organism, virus, infectious substance or
18 biological product, capable of causing:

19 (a) death, disease or other biological
20 malfunction in a human, an animal, a plant or another
21 living organism;

22 (b) deterioration of food, water, equipment,
23 supplies or material of any kind; or

24 (c) deleterious alteration of the environment.

25 (3) 'Destructive device' means any explosive,
26 incendiary, poison gas or projectile-expelling weapon

1 capable of causing serious bodily injury or death, that
2 has been developed, produced, transferred, acquired,
3 retained or possessed for use as a weapon, or any
4 combination of parts or pieces thereof which would be
5 used or converted for such purposes.

6 (4) 'Engages in' with respect to terrorist acts,
7 terrorism offenses and terrorism, means, in an
8 individual capacity or as a member of an organization,
9 to:

10 (a) perpetrate, commit or carry out, or incite to
11 commit or carry out;

12 (b) threaten, attempt, solicit or conspire to
13 carry out or commit;

14 (c) prepare or plan;

15 (d) supervise, direct or organize others;

16 (e) aid, abet or assist;

17 (f) gather information on potential targets for;

18 (g) solicit, collect or provide funds or other
19 things of value, with the knowledge or intent that the
20 funds or other things of value will be used for
21 terrorism or by a terrorist organization;

22 (h) solicit, recruit or train any person to
23 engage in terrorism or for membership in a terrorist
24 organization; or

25 (i) commit or carry out an act that the person
26 knows, or reasonably should know, affords material

1 support, including a safe house, transportation,
2 communications funds, transfer of funds or other
3 material benefit, false documentation or identification,
4 weapons, explosives or training for terrorism or a
5 terrorist organization, or to any individual who the
6 person knows, or reasonably should know, engages in
7 terrorism.

8 (5) 'Foreign national' means a natural person who is
9 neither a citizen nor national of the Federated States
10 of Micronesia.

11 (6) 'Foreign state' means any country other than the
12 Federated States of Micronesia, and every constituent
13 part of such country, including a territory, dependency
14 or protectorate.

15 (7) 'Funds' means assets of every kind, whether
16 tangible or intangible, movable or immovable, however
17 acquired, and legal documents or instruments in any
18 form, including electronic or digital, evidencing title
19 to, or interest in, such assets, including, but not
20 limited to, bank credits, travelers checks, bank checks,
21 money orders, shares, securities, bonds, drafts and
22 letters of credit.

23 (8) 'International terrorism conventions' means:

24 (a) the 1971 Convention for the Suppression of
25 Unlawful Acts Against the Safety of Civil Aviation;

26 (b) the 1973 Convention on the Prevention and

1 Punishment of Crimes Against Internationally Protected
2 Persons;

3 (c) the 1979 Convention Against the Taking of
4 Hostages;

5 (d) the 1988 Convention Against Illicit Traffic
6 in Narcotic Drugs and Psychotropic Substances;

7 (e) the 1988 Convention for the Suppression of
8 Unlawful Acts Against the Safety of Maritime Navigation;

9 (f) the 1988 Protocol for the Suppression of
10 Unlawful Acts of Violence at Airports Serving
11 International Civil Aviation;

12 (g) the 1998 Convention for the Suppression of
13 Terrorist Bombings;

14 (h) the 1999 Convention for the Suppression of
15 the Financing of Terrorism;

16 (i) the 2000 Convention Against Transnational
17 Organized Crime; and

18 (j) any other international conventions to which
19 the Federated States of Micronesia is, or becomes, a
20 party.

21 (9) 'person' means any natural or legal person
22 including a group, association or body of persons,
23 whether it has legal personality or not, and shall
24 include any foreign state, or any agency or
25 instrumentality or political subdivision of that state.

26 (10) 'Proceeds' means any property derived from or

1 obtained, directly or indirectly, through or from
2 terrorism, a terrorism offense or a terrorist act.

3 (11) 'Property' means currency and all other real or
4 personal property of any kind, whether corporeal or
5 incorporeal, moveable or immovable, tangible or
6 intangible, and legal documents or instruments in any
7 form including electronic or digital, evidencing title
8 to, or interest in, such property, whether situated in
9 Federated States of Micronesia or elsewhere and includes
10 any legal or equitable interest in any such property.

11 (12) 'Secretary' means the Secretary of the Department
12 of Justice for the Federated States of Micronesia, or
13 his or her designee.

14 (13) 'Serious bodily injury' means physical pain,
15 illness or any impairment of physical condition that
16 creates a substantial risk of death or which causes
17 serious, permanent disfigurement, or protracted loss or
18 impairment of the function of any body part or organ.

19 (14) 'Serious offense' means a violation of:

20 (a) any law of Federated States of Micronesia or
21 any of its States or political subdivisions, which is a
22 criminal offense punishable by imprisonment for a term
23 of more than one year or a fine of more than \$10,000; or

24 (b) a law of a foreign State, in relation to acts
25 or omissions, which, had they occurred in Federated
26 States of Micronesia or any of its States or political

1 subdivisions, would have constituted a criminal offense
2 punishable by imprisonment for a term of more than one
3 year or a fine of more than \$10,000.

4 (15) 'Ship' means a vessel of any type whatsoever not
5 permanently attached to the seabed, including
6 dynamically supported vessel, submersibles, or an other
7 floating vessel.

8 (16) 'Substantial property damage' means property
9 damage in an amount exceeding \$10,000.

10 (17) 'Supreme Court' means the Supreme Court of the
11 Federated States of Micronesia, and all its divisions,
12 wherever or whenever constituted.

13 (18) 'Terrorism' means terrorism offenses and terrorist
14 acts.

15 (19) 'Terrorism offense' means:

16 (a) any crime established by this chapter;

17 (b) any crime established by the laws of the
18 Federated States of Micronesia and declared to be a
19 terrorism offense;

20 (c) any crime established by an international
21 terrorism convention;

22 (d) any crime recognized under international
23 humanitarian law as a terrorism offense; and

24 (e) any crime established under the law of a
25 foreign state, where such crime, if committed in the
26 Federated States of Micronesia, would constitute a

1 terrorism offense.

2 (20) 'Terrorist' means:

3 (a) a person that has knowingly:

4 (i) committed;

5 (ii) attempted to commit;

6 (iii) participated in committing; or

7 (iv) facilitated the commission of

8 a terrorist act, or

9 (b) a person that is knowingly acting:

10 (i) on behalf of;

11 (ii) at the direction of; or

12 (iii) in association with

13 a person referred to in subsection (20) (a) of this

14 subsection.

15 (21) 'Terrorist act' means an act or threat of action

16 in or outside Federated States of Micronesia which

17 constitutes a terrorism offense, or:

18 (a)

19 (i) involves serious bodily harm to a

20 person;

21 (ii) involves serious damage to property;

22 (iii) endangers a person's life;

23 (iv) involves the seizing and detaining of a

24 person;

25 (v) involves the hijacking, seizing or

26 sabotaging of any conveyance, including an aircraft,

1 vessel, ship, vehicle or fixed platform attached to the
2 continental shelf;

3 (vi) involves the threat to kill, seriously
4 injure or detain another person;

5 (vii) creates a serious risk to the health or safety of
6 the public or a section of the public;

7 (viii) involves the use of a destructive
8 device;

9 (ix) involves releasing into the environment
10 or any part thereof or distributing or exposing the
11 public or any part thereof to any dangerous, hazardous,
12 radioactive or harmful substance, any toxic chemical, or
13 any microbial or other biological agent or toxin;

14 (x) is designed or intended to disrupt any
15 computer or electronic system, or the provision of
16 services directly related to communications
17 infrastructure, banking or financial services,
18 utilities, transportation or other essential
19 infrastructure;

20 (xi) is designed or intended to disrupt the
21 provision of essential emergency services such as
22 police, civil defense or medical services; or

23 (xii) endangers the national security,
24 national defense or public safety of any country; and

25 (b) is intended, or by its nature and context,
26 may reasonably be regarded as being intended to:

1 (i) intimidate the public or a section of
2 the public;

3 (ii) compel a government or an international
4 organization to do, or refrain from doing, any act; or

5 (iii) is made for the purpose of advancing a
6 political, ideological, or religious cause, or seriously
7 destabilizing or destroying the fundamental political,
8 constitutional, economic or social structures of a
9 country or an international organization.

10 (22) 'Terrorist organization' means a group composed of
11 two or more persons, whether organized or not, that
12 engages in terrorism.

13 (23) 'Toxic chemical' means any chemical which through
14 its chemical action on life processes can cause death,
15 temporary incapacitation or permanent harm to humans or
16 animals, and includes all such chemicals, regardless of
17 their origin or of their method of production, and
18 regardless of whether they are produced in facilities,
19 in munitions or elsewhere.

20 (24) 'The Federated States of Micronesia' means the
21 territory of the Federated States of Micronesia,
22 including all land masses and marine space, the airspace
23 above the territorial seas of the Federated States of
24 Micronesia, and any diplomatic or consular premises of
25 the Federated States of Micronesia, and also includes
26 all governments of the Federated States of Micronesia.

1 (25) 'Toxin' means the toxic material of plants,
2 animals, micro-organisms, viruses, fungi or infectious
3 substances, or a recombinant molecule, whatever its
4 origin or method of production, including:

5 (a) any poisonous isomer or biological product,
6 homology, or derivative of such a substance."

7 Section 6. Title 11 of the Code of the Federated States of
8 Micronesia, as amended, is hereby further amended by adding a new
9 section 1304 to read as follows:

10 "Section 1304. Jurisdiction.

11 (1) The Secretary shall have primary enforcement
12 authority for this chapter.

13 (2) The Federated States of Micronesia shall have
14 jurisdiction over and prosecute any crime established
15 under this chapter when the offense is committed:

16 (a) in the Federated States of Micronesia;

17 (b) by a citizen or national of the Federated
18 States of Micronesia; or

19 (c) on board an aircraft or ship that is:

20 (i) registered under the laws of the
21 Federated States of Micronesia at the time the offense
22 was committed; or

23 (ii) operating under or flying the flag of
24 the Federated States of Micronesia.

25 (3) The Federated States of Micronesia shall also
26 have, and may take jurisdiction over and prosecute any

1 crime established by this chapter when the offense:

2 (a) was directed towards or resulted in the
3 carrying out of a crime against a citizen or national of
4 the Federated States of Micronesia, or during its
5 commission a citizen or national of the Federated States
6 of Micronesia is seized, threatened, injured or killed;

7 (b) was directed towards or resulted in the
8 carrying out of a crime against the government or
9 government facility, including diplomatic or consular
10 premises, of the Federated States of Micronesia;

11 (c) was directed towards or resulted in a crime
12 committed in an attempt to compel the Federated States
13 of Micronesia to do or abstain from doing any act; or

14 (d) was committed by a stateless person who has
15 his or her habitual residence in the Federated States of
16 Micronesia.

17 (4) Notwithstanding any other provision of law, there
18 shall be no limitation of time on when a prosecution for
19 a crime established under this chapter may be brought.

20 (5) Where a foreign state alleges that an alleged
21 offender has engaged in terrorism or a terrorist act
22 against that foreign state, and the alleged offender is
23 present in the territory of the Federated States of
24 Micronesia, in all cases where the Federated States of
25 Micronesia has jurisdiction, and the alleged offender is
26 not extradited to a foreign state that has established

1 jurisdiction over the alleged offender, the Secretary
2 shall prosecute the case without exception whatsoever
3 and whether or not the offense was committed in the
4 territory of the Federated States of Micronesia through
5 proceedings in accordance with the law of the Federated
6 States of Micronesia."

7 Section 7. Title 11 of the Code of the Federated States of
8 Micronesia, as amended, is hereby further amended by adding a new
9 section 1305 to read as follows:

10 "Section 1305. Terrorist acts not expressly
11 criminalized in a subchapter of this chapter. It shall
12 be a crime, punishable by the penalties established by
13 section 1306 of this chapter, for any person to
14 knowingly, by any means, directly or indirectly, engage
15 in a terrorist act."

16 Section 8. Title 11 of the Code of the Federated States of
17 Micronesia, as amended, is hereby further amended by adding a new
18 section 1306 to read as follows:

19 "Section 1306. Criminal Penalties.

20 (1) A person convicted of a crime under this chapter
21 shall be punishable:

22 (a) in the case of a natural person, by a minimum
23 term of imprisonment of 10 years and a maximum term of
24 imprisonment of life, and unless otherwise expressly
25 provided, a maximum fine of \$1,000,000; or

26 (b) in the case of a legal person that is not a

1 natural person by a maximum fine of \$10,000,000 unless
2 otherwise expressly provided.

3 (2) A court shall not suspend any portion of the
4 sentence of, or grant parole to, a person convicted of a
5 crime under this chapter.

6 (3) In lieu of the amount of the fine established
7 under subsection (1) of this section, and in addition to
8 any term of imprisonment, a person may be fined not more
9 that twice the gross profits or other proceeds he or she
10 derived from a crime established by this chapter.

11 (4) The Supreme Court shall order any person convicted
12 of a crime established by this chapter to reimburse the
13 Federated States of Micronesia for any expenses incurred
14 by the Federated States of Micronesia incident to the
15 investigation and prosecution of the crime, including
16 but not limited to, the seizure, storage, handling,
17 transportation and destruction or other disposition of
18 any property that was seized in connection with an
19 investigation of the commission of the crime by that
20 person."

21 Section 9. Title 11 of the Code of the Federated States of
22 Micronesia, as amended, is hereby further amended by adding a new
23 section 1307 to read as follows:

24 "Section 1307. Civil Penalties.

25 (1) The Secretary may bring a civil action in the
26 Supreme Court against any person who commits a crime

1 established by this chapter, and upon proof by a
2 preponderance of the evidence that such person committed
3 the offense, the person shall be subject to pay a civil
4 penalty not to exceed \$20,000,000 for each offense, in
5 addition to court costs and reasonable attorney's fees
6 incurred by the Federated States of Micronesia in
7 bringing the action.

8 (2) The imposition of a civil penalty under subsection
9 (1) of this section does not preclude any other criminal
10 or civil statutory, common law or administrative
11 remedies, which are available by law to the Federated
12 States of Micronesia or any person."

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 1308 to read as follows:

16 "Section 1308. Private causes of action.

17 (1) Any citizen or national of the Federated States of
18 Micronesia, or his or her estate, survivors or heirs,
19 who is injured in his or her person, property or
20 business by reason of a terrorist act or terrorist
21 offense may sue therefore in the Supreme Court and shall
22 recover treble damages he or she sustained as a result
23 of the terrorist act or terrorist offense, and shall
24 also recover all court costs and reasonable attorney's
25 fees incurred by the person in bringing the action.

26 (2) No action shall be maintained under subsection (1)

1 of this section against the Federated States of
2 Micronesia, an agency of the Federated States of
3 Micronesia, or an officer or employee of the Federated
4 States of Micronesia acting in his or her official
5 capacity or under color of legal authority. The
6 government of the Federated States of Micronesia shall
7 bear no liability for costs or recovery as a result of
8 an action brought pursuant to subsection (1) of this
9 section.

10 (3) No action shall be maintained under subsection (1)
11 of this section for injury or loss by reason of an act
12 of war."

13 Section 11. Title 11 of the Code of the Federated States of
14 Micronesia, as amended, is hereby further amended by adding a new
15 section 1309 to read as follows:

16 "Section 1309. Liability of corporations and other
17 legal persons.

18 (1) Where in proceedings for a violation of this
19 chapter it is necessary to establish the state of mind
20 of a corporation or other legal person, it is sufficient
21 to show that a director, officer or agent of the
22 corporation or other legal person who engaged in the
23 conduct within the scope of his or her actual or
24 apparent authority had that requisite state of mind.

25 (2) Any conduct engaged in -

26 (a) by a director, officer or agent of a

1 corporation or other person within the scope of his or
2 her actual or apparent authority; or

3 (b) any other person at the direction or with the
4 consent or agreement, whether expressed or implied, of a
5 director, officer or agent of the corporation or legal
6 person, where the giving of such direction, consent or
7 agreement is within the scope of the actual or apparent
8 authority of the director, officer or agent;
9 shall be deemed, for the purposes of this chapter, to
10 have also been engaged in by the corporation or legal
11 person."

12 Section 12. Title 11 of the Code of the Federated States of
13 Micronesia, as amended, is hereby further amended by adding a new
14 section 1310 to read as follows:

15 "Section 1310. Detention prior to filing of charges.

16 (1) In situations of urgency, where there is probable
17 cause to believe that detention of any person is
18 necessary to prevent a terrorist act or terrorist
19 offense from occurring, or to prevent any person from
20 interfering with an investigation relating to suspected
21 terrorism, the Secretary may petition the Supreme Court
22 for authority to detain such person for a period of 72
23 hours for purposes of investigation without filing
24 criminal charges against the person.

25 (2) The Supreme Court may extend the period of
26 detention for an additional 7 days without the filing of

1 criminal charges against the person if the Court finds
2 that the continued detention is necessary to prevent a
3 terrorist act or a terrorist offense from occurring, or
4 to prevent any person from interfering with an
5 investigation relating to suspected terrorism."

6 Section 13. Title 11 of the Code of the Federated States of
7 Micronesia, as amended, is hereby further amended by adding a new
8 section 1311 to read as follows:

9 "Section 1311. Regulations. The Secretary may
10 prescribe such rules and regulations as the Secretary
11 deems necessary to implement to provisions of this
12 chapter."

13 Section 14. Title 11 of the Code of the Federated States of
14 Micronesia is hereby amended by adding a new subchapter II of
15 chapter 13 entitled "Suppression of Financing of Terrorism".

16 Section 15. Title 11 of the Code of the Federated States of
17 Micronesia, as amended, is hereby further amended by adding a new
18 section 1312 to read as follows:

19 "Section 1312. Purpose. The purpose of this subchapter
20 is to create offenses relating to the financing of
21 terrorism and to give effect to the International
22 Convention for the Suppression of the Financing of
23 Terrorism, to which the Federated States of Micronesia
24 became party by accession in 2001."

25 Section 16. Title 11 of the Code of the Federated States of
26 Micronesia, as amended, is hereby further amended by adding a new

1 section 1313 to read as follows:

2 "Section 1313. Financing of Terrorism Prohibited.

3 (1) Any person who by any means, directly or
4 indirectly, provides, solicits, collects or makes
5 available funds knowing that the funds are to be used,
6 in full or part:

7 (a) for a terrorist act or a terrorist offense;

8 (b) for the benefit of persons who engage in a
9 terrorist act or a terrorist offense, or for the benefit
10 of entities owned or controlled, directly or indirectly,
11 by persons who engage in terrorism; or

12 (c) for the benefit of persons or entities acting
13 on behalf of or at the direction of any person referred
14 to in subsection (1)(b) of this section;
15 commits a crime punishable by the penalties established
16 by section 1306 of this chapter.

17 (2) For an act to constitute an offense under this
18 section, it shall not be necessary that the property was
19 actually used to finance a terrorist act or a terrorist
20 offense."

21 Section 17. This act shall become law upon approval by the
22 President of the Federated States of Micronesia or upon its
23 becoming law without such approval.

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25 Date: 9/14/06

Introduced by: /s/ Simiram Sipenuk

Simiram Sipenuk
(by request)

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