
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,

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

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

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

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

15 (c) prepare or plan;

16 (d) supervise, direct or organize others;

17 (e) aid, abet or assist;

18 (f) gather information on potential targets for;

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

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

1 (i) commit or carry out an act that the person
2 knows, or reasonably should know, affords material
3 support, including a safe house, transportation,
4 communications funds, transfer of funds or other
5 material benefit, false documentation or identification,
6 weapons, explosives or training for terrorism or a
7 terrorist organization, or to any individual who the
8 person knows, or reasonably should know, engages in
9 terrorism.

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

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

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

25 (8) 'International terrorism conventions' means:

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

3 (b) the 1973 Convention on the Prevention and
4 Punishment of Crimes Against Internationally Protected
5 Persons;

6 (c) the 1979 Convention Against the Taking of
7 Hostages;

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

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

12 (f) the 1988 Protocol for the Suppression of
13 Unlawful Acts of Violence at Airports Serving
14 International Civil Aviation;

15 (g) the 1998 Convention for the Suppression of
16 Terrorist Bombings;

17 (h) the 1999 Convention for the Suppression of
18 the Financing of Terrorism;

19 (i) the 2000 Convention Against Transnational
20 Organized Crime; and

21 (j) any other international conventions to which
22 the Federated States of Micronesia is, or becomes, a
23 party.

24 (9) 'person' means any natural or legal person
25 including a group, association or body of persons,

1 whether it has legal personality or not, and shall
2 include any foreign state, or any agency or
3 instrumentality or political subdivision of that state.

4 (10) 'Proceeds' means any property derived from or
5 obtained, directly or indirectly, through or from
6 terrorism, a terrorism offense or a terrorist act.

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

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

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

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

24 (a) any law of Federated States of Micronesia or
25 any of its States or political subdivisions, which is a

1 criminal offense punishable by imprisonment for a term
2 of more than one year or a fine of more than \$10,000; or

3 (b) a law of a foreign State, in relation to acts
4 or omissions, which, had they occurred in Federated
5 States of Micronesia or any of its States or political
6 subdivisions, would have constituted a criminal offense
7 punishable by imprisonment for a term of more than one
8 year or a fine of more than \$10,000.

9 (15) 'Ship' means a vessel of any type whatsoever not
10 permanently attached to the seabed, including
11 dynamically supported vessel, submersibles, or an other
12 floating vessel.

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

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

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

20 (19) 'Terrorism offense' means:

21 (a) any crime established by this chapter;

22 (b) any crime established by the laws of the
23 Federated States of Micronesia and declared to be a
24 terrorism offense;

25 (c) any crime established by an international

1 terrorism convention;

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

4 (e) any crime established under the law of a
5 foreign state, where such crime, if committed in the
6 Federated States of Micronesia, would constitute a
7 terrorism offense.

8 (20) 'Terrorist' means:

9 (a) a person that has knowingly:

10 (i) committed;

11 (ii) attempted to commit;

12 (iii) participated in committing; or

13 (iv) facilitated the commission of

14 a terrorist act, or

15 (b) a person that is knowingly acting:

16 (i) on behalf of;

17 (ii) at the direction of; or

18 (iii) in association with

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

20 subsection.

21 (21) 'Terrorist act' means an act or threat of action
22 in or outside Federated States of Micronesia which
23 constitutes a terrorism offense, or:

24 (a)

25 (i) involves serious bodily harm to a

- 1 person;
- 2 (ii) involves serious damage to property;
- 3 (iii) endangers a person's life;
- 4 (iv) involves the seizing and detaining of a
- 5 person;
- 6 (v) involves the hijacking, seizing or
- 7 sabotaging of any conveyance, including an aircraft,
- 8 vessel, ship, vehicle or fixed platform attached to the
- 9 continental shelf;
- 10 (vi) involves the threat to kill, seriously
- 11 injure or detain another person;
- 12 (vii) creates a serious risk to the health or safety of
- 13 the public or a section of the public;
- 14 (viii) involves the use of a destructive
- 15 device;
- 16 (ix) involves releasing into the environment
- 17 or any part thereof or distributing or exposing the
- 18 public or any part thereof to any dangerous, hazardous,
- 19 radioactive or harmful substance, any toxic chemical, or
- 20 any microbial or other biological agent or toxin;
- 21 (x) is designed or intended to disrupt any
- 22 computer or electronic system, or the provision of
- 23 services directly related to communications
- 24 infrastructure, banking or financial services,
- 25 utilities, transportation or other essential

1 infrastructure;

2 (xi) is designed or intended to disrupt the
3 provision of essential emergency services such as
4 police, civil defense or medical services; or

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

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

9 (i) intimidate the public or a section of
10 the public;

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

13 (iii) is made for the purpose of advancing a
14 political, ideological, or religious cause, or seriously
15 destabilizing or destroying the fundamental political,
16 constitutional, economic or social structures of a
17 country or an international organization.

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

21 (23) 'Toxic chemical' means any chemical which through
22 its chemical action on life processes can cause death,
23 temporary incapacitation or permanent harm to humans or
24 animals, and includes all such chemicals, regardless of
25 their origin or of their method of production, and

1 regardless of whether they are produced in facilities,
2 in munitions or elsewhere.

3 (24) 'The Federated States of Micronesia' means the
4 territory of the Federated States of Micronesia,
5 including all land masses and marine space, the airspace
6 above the territorial seas of the Federated States of
7 Micronesia, and any diplomatic or consular premises of
8 the Federated States of Micronesia, and also includes
9 all governments of the Federated States of Micronesia.

10 (25) 'Toxin' means the toxic material of plants,
11 animals, micro-organisms, viruses, fungi or infectious
12 substances, or a recombinant molecule, whatever its
13 origin or method of production, including:

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

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

19 "Section 1304. Jurisdiction.

20 (1) The Secretary shall have primary enforcement
21 authority for this chapter.

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

25 (a) in the Federated States of Micronesia;

1 (b) by a citizen or national of the Federated
2 States of Micronesia; or

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

4 (i) registered under the laws of the
5 Federated States of Micronesia at the time the offense
6 was committed; or

7 (ii) operating under or flying the flag of
8 the Federated States of Micronesia.

9 (3) The Federated States of Micronesia shall also
10 have, and may take jurisdiction over and prosecute any
11 crime established by this chapter when the offense:

12 (a) was directed towards or resulted in the
13 carrying out of a crime against a citizen or national of
14 the Federated States of Micronesia, or during its
15 commission a citizen or national of the Federated States
16 of Micronesia is seized, threatened, injured or killed;

17 (b) was directed towards or resulted in the
18 carrying out of a crime against the government or
19 government facility, including diplomatic or consular
20 premises, of the Federated States of Micronesia;

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

24 (d) was committed by a stateless person who has
25 his or her habitual residence in the Federated States of

1 Micronesia.

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

5 (5) Where a foreign state alleges that an alleged
6 offender has engaged in terrorism or a terrorist act
7 against that foreign state, and the alleged offender is
8 present in the territory of the Federated States of
9 Micronesia, in all cases where the Federated States of
10 Micronesia has jurisdiction, and the alleged offender is
11 not extradited to a foreign state that has established
12 jurisdiction over the alleged offender, the Secretary
13 shall prosecute the case without exception whatsoever
14 and whether or not the offense was committed in the
15 territory of the Federated States of Micronesia through
16 proceedings in accordance with the law of the Federated
17 States of Micronesia."

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

21 "Section 1305. Terrorist acts not expressly
22 criminalized in a subchapter of this chapter. It shall
23 be a crime, punishable by the penalties established by
24 section 1306 of this chapter, for any person to
25 knowingly, by any means, directly or indirectly, engage

1 in a terrorist act."

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

5 "Section 1306. Criminal Penalties.

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

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

12 (b) in the case of a legal person that is not a
13 natural person by a maximum fine of \$10,000,000 unless
14 otherwise expressly provided.

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

18 (3) In lieu of the amount of the fine established
19 under subsection (1) of this section, and in addition to
20 any term of imprisonment, a person may be fined not more
21 than twice the gross profits or other proceeds he or she
22 derived from a crime established by this chapter.

23 (4) The Supreme Court shall order any person convicted
24 of a crime established by this chapter to reimburse the
25 Federated States of Micronesia for any expenses incurred

1 by the Federated States of Micronesia incident to the
2 investigation and prosecution of the crime, including
3 but not limited to, the seizure, storage, handling,
4 transportation and destruction or other disposition of
5 any property that was seized in connection with an
6 investigation of the commission of the crime by that
7 person."

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

11 "Section 1307. Civil Penalties.

12 (1) The Secretary may bring a civil action in the
13 Supreme Court against any person who commits a crime
14 established by this chapter, and upon proof by a
15 preponderance of the evidence that such person committed
16 the offense, the person shall be subject to pay a civil
17 penalty not to exceed \$20,000,000 for each offense, in
18 addition to court costs and reasonable attorney's fees
19 incurred by the Federated States of Micronesia in
20 bringing the action.

21 (2) The imposition of a civil penalty under subsection
22 (1) of this section does not preclude any other criminal
23 or civil statutory, common law or administrative
24 remedies, which are available by law to the Federated
25 States of Micronesia or any person."

1 Section 10. Title 11 of the Code of the Federated States of
2 Micronesia, as amended, is hereby further amended by adding a new
3 section 1308 to read as follows:

4 "Section 1308. Private causes of action.

5 (1) Any citizen or national of the Federated States of
6 Micronesia, or his or her estate, survivors or heirs,
7 who is injured in his or her person, property or
8 business by reason of a terrorist act or terrorist
9 offense may sue therefore in the Supreme Court and shall
10 recover treble damages he or she sustained as a result
11 of the terrorist act or terrorist offense, and shall
12 also recover all court costs and reasonable attorney's
13 fees incurred by the person in bringing the action.

14 (2) No action shall be maintained under subsection (1)
15 of this section against the Federated States of
16 Micronesia, an agency of the Federated States of
17 Micronesia, or an officer or employee of the Federated
18 States of Micronesia acting in his or her official
19 capacity or under color of legal authority. The
20 government of the Federated States of Micronesia shall
21 bear no liability for costs or recovery as a result of
22 an action brought pursuant to subsection (1) of this
23 section.

24 (3) No action shall be maintained under subsection (1)
25 of this section for injury or loss by reason of an act

1 of war."

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

5 "Section 1309. Liability of corporations and other
6 legal persons.

7 (1) Where in proceedings for a violation of this
8 chapter it is necessary to establish the state of mind
9 of a corporation or other legal person, it is sufficient
10 to show that a director, officer or agent of the
11 corporation or other legal person who engaged in the
12 conduct within the scope of his or her actual or
13 apparent authority had that requisite state of mind.

14 (2) Any conduct engaged in -

15 (a) by a director, officer or agent of a
16 corporation or other person within the scope of his or
17 her actual or apparent authority; or

18 (b) any other person at the direction or with the
19 consent or agreement, whether expressed or implied, of a
20 director, officer or agent of the corporation or legal
21 person, where the giving of such direction, consent or
22 agreement is within the scope of the actual or apparent
23 authority of the director, officer or agent;
24 shall be deemed, for the purposes of this chapter, to
25 have also been engaged in by the corporation or legal

1 person."

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

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

6 (1) In situations of urgency, where there is probable
7 cause to believe that detention of any person is
8 necessary to prevent a terrorist act or terrorist
9 offense from occurring, or to prevent any person from
10 interfering with an investigation relating to suspected
11 terrorism, the Secretary may petition the Supreme Court
12 for authority to detain such person for a period of 72
13 hours for purposes of investigation without filing
14 criminal charges against the person.

15 (2) The Supreme Court may extend the period of
16 detention for an additional 7 days without the filing of
17 criminal charges against the person if the Court finds
18 that the continued detention is necessary to prevent a
19 terrorist act or a terrorist offense from occurring, or
20 to prevent any person from interfering with an
21 investigation relating to suspected terrorism."

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

25 "Section 1311. Regulations. The Secretary may

1 prescribe such rules and regulations as the Secretary
2 deems necessary to implement to provisions of this
3 chapter."

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

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 1312 to read as follows:

10 "Section 1312. Purpose. The purpose of this subchapter
11 is to create offenses relating to the financing of
12 terrorism and to give effect to the International
13 Convention for the Suppression of the Financing of
14 Terrorism, to which the Federated States of Micronesia
15 became party by accession in 2001."

16 Section 16. Title 11 of the Code of the Federated States of
17 Micronesia, as amended, is hereby further amended by adding a new
18 section 1313 to read as follows:

19 "Section 1313. Financing of Terrorism Prohibited.

20 (1) Any person who by any means, directly or
21 indirectly, provides, solicits, collects or makes
22 available funds knowing that the funds are to be used,
23 in full or part:

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

25 (b) for the benefit of persons who engage in a

1 terrorist act or a terrorist offense, or for the benefit
2 of entities owned or controlled, directly or indirectly,
3 by persons who engage in terrorism; or

4 (c) for the benefit of persons or entities acting
5 on behalf of or at the direction of any person referred
6 to in subsection (1)(b) of this section;
7 commits a crime punishable by the penalties established
8 by section 1306 of this chapter.

9 (2) For an act to constitute an offense under this
10 section, it shall not be necessary that the property was
11 actually used to finance a terrorist act or a terrorist
12 offense."

13 Section 17. This act shall become law upon approval by the
14 President of the Federated States of Micronesia or upon its
15 becoming law without such approval.

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17 Date: 5/18/07

Introduced by: /s/ Joe N. Suka

18 Joe N. Suka
19 (by request)
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