

A BILL FOR AN ACT

To further amend title 11 of the Code of the Federated States of Micronesia, as amended by Public Law No. 11-72, by creating a subchapter I under chapter 6 consisting of existing sections 601 through 610; creating a new subchapter II under chapter 6 defining crimes relating to trafficking in persons and related offenses, and prescribing appropriate penalties for their violation, 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
2 of Micronesia, as amended by Public Law No. 11-72, is hereby
3 further amended by creating a new subchapter I under chapter 6
4 entitled "General Offenses", comprised of existing sections 601
5 through 610.

6 Section 2. Title 11 of the Code of the Federated States
7 of Micronesia, as amended by Public Law No. 11-72, is hereby
8 further amended by inserting a new subchapter II under chapter
9 6, entitled "Trafficking in Persons".

10 Section 3. Title 11 of the Code of the Federated States
11 of Micronesia, as amended by Public Law No. 11-72, is hereby
12 further amended by inserting a new section 611 to subchapter II
13 of chapter 6, to read as follows:

14 "Section 611. Citation. This act shall be known
15 and may be cited as the Trafficking in Persons Act of
16 2011."

17 Section 4. Title 11 of the Code of the Federated States

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1 of Micronesia, as amended by Public Law No. 11-72, is hereby
2 further amended by inserting a new section 612 to subchapter II
3 of chapter 6, to read as follows:

4 ~~"~~ Section 612. Definitions.

5 (1) 'Child' means any person below the age of
6 eighteen at the time of the commission of an offense
7 under this chapter.

8 ~~(2)~~ "Commercial carrier" means a legal person or
9 natural person that engages in international or
10 interstate transportation of goods or people for
11 commercial gain.

12 (3) "Forced labor or services" means all work or
13 service that is exacted from any person under the
14 threat of any penalty and for which the person
15 concerned has not offered himself or herself
16 voluntarily.

17 (4) "Prostitution" means illicit sexual
18 intercourse for hire.

19 ~~(5)~~ "Exploitation" means sexual servitude, or
20 exploitation of another person's prostitution, forced
21 labor or services, or obtaining labor or services,
22 through deceit, fraud, or by means of a material
23 misrepresentation.

24 ~~(6)~~ "Exploitation of another person's prostitution"
25 means the unlawful obtaining of financial or other

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1 material benefit from the prostitution of another
2 person."

3 Section 5. Title 11 of the Code of the Federated States
4 of Micronesia, as amended by Public Law No. 11-72, is hereby
5 further amended by inserting a new section 613 to subchapter II
6 of chapter 6, to read as follows:

7 "Section 613. Offense of human smuggling. A
8 person who knowingly or recklessly arranges or
9 assists another person's illegal entry into any
10 country, including the Federated States of
11 Micronesia, of which the other person is not a
12 citizen and has no lawful right to enter shall be
13 guilty of human smuggling, regardless of whether the
14 smuggled person successfully arrives in the receiving
15 country. Upon conviction, a person guilty of this
16 offense shall be imprisoned for not more than 10
17 years, fined not less than \$5,000 but not more than
18 \$20,000, or both."

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19 Section 6. Title 11 of the Code of the Federated States
20 of Micronesia, as amended by Public Law No. 11-72, is hereby
21 further amended by inserting a new section 614 to subchapter II
22 of chapter 6, to read as follows:

23 "Section 614. Offense of aggravated human
24 smuggling. A person who engages in human smuggling
25 as defined under section 613 of this title under

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circumstances in which the life or safety of a
smuggled person is, or is likely to be, endangered
shall be guilty of aggravated human smuggling,
regardless of whether the smuggled person
successfully arrives in the receiving country. Upon
conviction, a person guilty of this offense shall be
imprisoned for not more than 15 years, fined not less
than \$5,000 but not more than \$25,000, or both."

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Section 7. Title 11 of the Code of the Federated States
of Micronesia, as amended by Public Law No. 11-72, is hereby
further amended by inserting a new section 615 to subchapter II
of chapter 6, to read as follows:

"Section 615. Offense of human trafficking. A
person who knowingly recruits, transports, transfers,
harbors or receives another person for the purpose of
exploitation, by threat, use of force, abduction,
fraud, deception, abuse of power or the giving or
receiving of payments or benefits to achieve the
consent of a person having control over another
person shall be guilty of human trafficking. Upon
conviction, a person guilty of this offense shall be
imprisoned for not more than 15 years, or fined not
less than \$5,000 but not more than \$25,000, or both."

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Section 8. Title 11 of the Code of the Federated States
of Micronesia, as amended by Public Law No. 11-72, is hereby

1 further amended by inserting a new section 616 to subchapter II
2 of chapter 6, to read as follows:

3 ~~"Section 616. Offense of trafficking in children.~~
4 A person who knowingly recruits, transports,
5 transfers, -or receives a child into or out of the
6 Federated States of Micronesia by any means for the
7 purpose of exploitation shall be guilty of child
8 trafficking. Upon conviction, a person guilty of
9 this offense shall be imprisoned for not more than 30
10 years, or fined not less than \$5,000 but not more
11 than \$50,000, or both."

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12 Section 9. Title 11 of the Code of the Federated States
13 of Micronesia, as amended by Public Law No. 11-72, is hereby
14 further amended by inserting a new section 617 to subchapter II
15 of chapter 6, to read as follows:

16 ~~"Section 617. Offense of exploiting a trafficked~~
17 person. A person who knowingly engages or
18 participates in or profits from the exploitation of a
19 trafficked person shall be guilty of an offense.
20 Upon conviction, a person guilty of this offense
21 shall be imprisoned for not more than 10 years, or
22 fined not less than \$5,000 but not more than \$20,000,
23 or both."

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24 Section 10. Title 11 of the Code of the Federated States
25 of Micronesia, as amended by Public Law No. 11-72, is hereby

1 further amended by inserting a new section 618 to subchapter II
2 of chapter 6, to read as follows:".

3 ~~"Section 618. Consent of trafficked or smuggled~~
4 ~~person irrelevant. Consent to the act or acts~~
5 ~~constituting an offense on the part of smuggled~~
6 ~~person under sections 613 and 614, and trafficked~~
7 ~~person under sections 616 and 617, is not a legal~~
8 ~~defense."~~

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9 Section 11. Title 11 of the Code of the Federated States
10 of Micronesia, as amended by Public Law No. 11-72, is hereby
11 further amended by inserting a new section 619 to subchapter II
12 of chapter 6, to read as follows:

13 ~~"Section 619. Immunity of trafficked person. A~~
14 ~~trafficked person shall not be subject to criminal~~
15 ~~prosecution with respect to:~~
16 ~~(1) the act of human trafficking;~~
17 ~~(2) that person's entry into the receiving~~
18 ~~country;~~
19 ~~(3) that person's unlawful residence in the~~
20 ~~receiving country; and~~
21 ~~(4) that person's procurement or possession of~~
22 ~~any fraudulent travel or identity document."~~

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23 Section 12. Title 11 of the Code of the Federated States
24 of Micronesia, as amended by Public Law No. 11-72, is hereby
25 further amended by inserting a new section 620 to subchapter II

1 of chapter 6, to read as follows:

2 ~~"Section 620. Scope of application. The offenses~~
3 defined in this chapter shall apply regardless of
4 whether the conduct constituting an offense took
5 place inside or outside the jurisdiction of the
6 Federated States of Micronesia if:

7 (1) the Federated States of Micronesia is the
8 receiving country, or if the exploitation occurs
9 herein; or

10 (2) the acts or conduct constituting an offense
11 under this chapter started, ended or occurred in part
12 in the jurisdiction of the Federated States of
13 Micronesia; or

14 (3) the offense is committed by a national of the
15 Federated States of Micronesia or by a person who is
16 not a citizen of any country but has his or her
17 habitual residence in the Federated States of
18 Micronesia at the time of the commission of the
19 offense; or

20 (4) the offense is committed against a victim who
21 is a national of the Federated States of Micronesia."

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22 Section 13. Title 11 of the Code of the Federated States
23 of Micronesia, as amended by Public Law No. 11-72, is hereby
24 further amended by inserting a new section 621 to subchapter II
25 of chapter 6, to read as follows:

"Section 621. Offense relating to fraudulent travel or identity documents. A person who makes, obtains, gives, sells, or possesses fraudulent travel or identity documents or supporting papers for the purpose of facilitating human smuggling or human trafficking or for the purpose of facilitating the continued presence of a smuggled or trafficked person in the receiving country shall be guilty of an offense. Upon conviction, a person guilty of this offense shall be imprisoned for not more than 8 years, or fined not less than \$5,000 but not more than \$15,000, or both."

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Section 14. Title 11 of the Code of the Federated States of Micronesia, as amended by Public Law No. 11-72, is hereby further amended by inserting a new section 622 to subchapter II of chapter 6, to read as follows:

"Section 622. Obligation of commercial carriers.
(1) A commercial carrier shall verify that every passenger possesses the necessary travel documents, including passports, visas and other supporting papers, to enter the destination country and any transit countries.
(2) The requirement in subsection (1) of this section applies both to staff of the commercial carrier selling or issuing tickets, boarding passes

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1 or similar travel documents and to staff collecting
2 or checking tickets prior to or subsequent to
3 boarding.

4 (3) Commercial carriers, or persons
5 referred to under subsection (2) of this
6 section, which fail to comply with the requirements
7 of this section shall be fined \$1,000 for every
8 passenger. Repeated failure to comply may be
9 sanctioned by revocation of license, permit,
10 certificate or authority to operate."

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

14
15 Date: 11/9/11 Introduced by: /s/ Florencio S. Harper
16 Florencio S. Harper
17 (by request)

18
19
20 Date: _____ Introduced by: _____
21 Florencio Singkoro
22 Harper
23 (by request)

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~~C.B. NO. 17-68~~ ~~C.B. NO. _____~~

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