

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 and
15 may be cited as the Trafficking in Persons Act of
16 2012."

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

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 or natural
9 person that engages in international or
10 interstate transportation of goods or people for
11 commercial gain.

12 (5) "Exploitation" means:

13 (a) the obtaining of financial or other
14 material benefit from the prostitution of another
15 person;

16 (b) the exaction of forced labor or services,
17 or the obtaining of labor or services through deceit,
18 fraud, or by means of a material misrepresentation;

19 (c) slavery or practices similar to slavery.

20 (3) "Forced labor or services" means work or
21 services, the solicitation of financial or material
22 benefits, or the donation of body parts or organs,
23 exacted under the threat of any penalty and for
24 which the person concerned has not offered himself or
25 herself voluntarily.

1 (5) "Practices similar to slavery" include debt
2 bondage, serfdom, and forced marriage.

3 (4) "Prostitution" means illicit sexual services
4 performed for financial or material benefit.

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

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

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

24 "Section 614. Offense of aggravated human smuggling.
25 A person who engages in human smuggling, as defined

1 under section 613 of this title, by means of violence
2 or kidnapping or under circumstances in which the
3 life or safety of a smuggled person is or is likely
4 to be endangered, shall be guilty of aggravated human
5 smuggling, regardless of whether the smuggled person
6 successfully arrives in the receiving country. Upon
7 conviction, a person guilty of this offense shall be
8 imprisoned for not more than 15 years, fined not less
9 than \$5,000 but not more than \$25,000, or both."

10 Section 7. 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 615 to subchapter II
13 of chapter 6, to read as follows:

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

1 or both."

2 Section 8. Title 11 of the Code of the Federated States
3 of Micronesia, as amended by Public Law No. 11-72, is hereby
4 further amended by inserting a new section 616 to subchapter II
5 of chapter 6, to read as follows:

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

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

18 "Section 617. Offense of aggravated human
19 trafficking. A person who engages in human
20 trafficking as defined under section 615 of this
21 title or trafficking in children as defined under
22 section 616 of this title shall be guilty of
23 aggravated human trafficking if any of the following
24 circumstances are present:

25 (a) the offense involves serious injury or

1 death of the victim or another person;
2 (b) the offense involves a victim who is
3 particularly vulnerable, including a pregnant woman;
4 (c) the offense exposed the victim to a life-
5 threatening illness, including HIV/AIDS;
6 (d) the victim is physically or mentally
7 handicapped;
8 (e) the offense involves more than one victim;
9 (f) the crime was committed as part of the
10 activity of an organized criminal group;
11 (g) drugs, medications or weapons were used in
12 the commission of the crime;
13 (h) a child was adopted for the purpose of
14 trafficking;
15 (i) the offender has been previously convicted
16 for the same or similar offences;
17 (j) the offender is a public official
18 (k) the offender is a spouse or the conjugal
19 partner of the victim;
20 (l) the offender is in a position of
21 responsibility or trust in relation to the victim;
22 (m) the offender is in a position of authority
23 concerning a child victim.
24 Upon conviction, a person guilty of this offense
25 shall be imprisoned for not more than 30 years, or

1 fined not less than \$5,000 but not more than \$50,000,
2 or both."

3 Section 10. 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 618 to subchapter II
6 of chapter 6, to read as follows:

7 "Section 618. Offense of exploiting a trafficked
8 person. A person who knowingly engages or
9 participates in or profits from the exploitation of a
10 trafficked person shall be guilty of an offense.
11 Upon conviction, a person guilty of this offense
12 shall be imprisoned for not more than 10 years, or
13 fined not less than \$5,000 but not more than \$20,000,
14 or both."

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

19 "Section 619. Consent of trafficked or smuggled
20 person irrelevant. Consent to the act or acts
21 constituting an offense on the part of smuggled
22 person under sections 613 and 614, and trafficked
23 person under sections 615, 616, 617, and 618 is not a
24 legal defense."

25 Section 12. Title 11 of the Code of the Federated States

1 of Micronesia, as amended by Public Law No. 11-72, is hereby
2 further amended by inserting a new section 620 to subchapter II
3 of chapter 6, to read as follows:

4 "Section 620. Rights of Victims.

5 (1) A trafficked person shall not be subject to
6 criminal prosecution with respect to:

7 (a) the act of human trafficking;

8 (b) that person's entry into the receiving
9 country;

10 (c) that person's unlawful residence in the
11 receiving country; and

12 (d) that person's procurement or possession of
13 any fraudulent travel or identity document.

14 (2) The Secretary of the Department of Justice
15 shall establish national guidelines and procedures
16 for providing assistance to victims of trafficked
17 persons and witnesses of trafficking in persons,
18 including but not limited to:

19 (a) ensuring that victims, witnesses, and
20 their families are provided adequate protection if
21 their safety is at risk, including measures to
22 protect them from intimidation and retaliation by
23 traffickers and their associates;

24 (b) providing victims with the opportunity to
25 present their views, needs, interests and concerns

1 for consideration at appropriate stages of any
2 judicial or administrative proceedings relating to
3 the offense, either directly or through their
4 representative, without prejudice to the rights of
5 the defense;

6 (c) where the victim is an unaccompanied
7 minor, providing for the appointment of a legal
8 guardian to represent the interests of the child,
9 taking all necessary steps to establish his or her
10 identity and nationality, and making every effort to
11 locate his or her family when this is in the best
12 interest of the child;

13 (d) where the victim is a national of the
14 Federated States of Micronesia, facilitating and
15 accepting the return of the victim without undue or
16 unreasonable delay and with due regard for his or her
17 rights and safety;

18 (e) where the victim is not a national of the
19 Federated States of Micronesia and requests to return
20 to his or her country of origin or the country in
21 which he or she had the right of permanent residence
22 at the time he or she was trafficked, facilitating
23 such return, including arranging for the necessary
24 travel documents, without undue delay and with due
25 regard for his or her rights and safety;

1 (f) providing information to all victims on
2 the nature of protection, assistance and support to
3 which they are entitled and the possibilities of
4 assistance and support by non-governmental
5 organizations and other victim agencies, as well as
6 information on any legal proceedings related to them.
7 Such information shall be provided in a language and
8 form that the victim understands."

9 Section 13. 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 621 to subchapter II
12 of chapter 6, to read as follows:

13 "Section 621. Scope of application. The offenses
14 defined in this chapter shall apply regardless of
15 whether the conduct constituting an offense took
16 place inside or outside the jurisdiction of the
17 Federated States of Micronesia if:

18 (1) the Federated States of Micronesia is the
19 receiving country, or if the exploitation occurs
20 herein; or

21 (2) the acts or conduct constituting an offense
22 under this chapter started, ended or occurred in part
23 in the jurisdiction of the Federated States of
24 Micronesia; or

25 (3) the offense is committed by a national of the

1 Federated States of Micronesia or by a person who is
2 not a citizen of any country but has his or her
3 habitual residence in the Federated States of
4 Micronesia at the time of the commission of the
5 offense; or

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

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

12 "Section 622. Offense relating to fraudulent travel
13 or identity documents. A person who makes, obtains,
14 gives, sells, or possesses fraudulent travel or
15 identity documents or supporting papers for the
16 purpose of facilitating human smuggling or human
17 trafficking or for the purpose of facilitating the
18 continued presence of a smuggled or trafficked person
19 in the receiving country shall be guilty of an
20 offense. Upon conviction, a person guilty of this
21 offense shall be imprisoned for not more than 8
22 years, or fined not less than \$5,000 but not more
23 than \$15,000, or both."

24 Section 15. 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 623 to subchapter II
2 of chapter 6, to read as follows:

3 "Section 623. Obligation of commercial carriers.

4 (1) A commercial carrier shall verify that every
5 passenger possesses the necessary travel documents,
6 including passports, visas and other supporting
7 papers, to enter the destination country and any
8 transit countries.

9 (2) The requirement in subsection (1) of this
10 section applies both to staff of the commercial
11 carrier selling or issuing tickets, boarding passes
12 or similar travel documents and to staff collecting
13 or checking tickets prior to or subsequent to
14 boarding.

15 (3) Commercial carriers, or persons referred
16 to under subsection (2) of this section, which
17 fail to comply with the requirements of this section
18 shall be fined \$1,000 for every passenger.
19 Repeated failure to comply may be sanctioned by
20 revocation of license, permit, certificate or
21 authority to operate."

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25 Section 16. This act shall become law upon approval by

1 the President of the Federated States of Micronesia or upon its
2 becoming law without such approval.

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4 Date: 1/16/12

Introduced by: /s/ Isaac V. Figir
Isaac V. Figir

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