

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 of
2 Micronesia, as amended by Public Law No. 11-72, is hereby further
3 amended by creating a new subchapter I under chapter 6 entitled
4 "General Offenses", comprised of existing sections 601 through
5 610.

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

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

1 Micronesia, as amended by Public Law No. 11-72, is hereby further
2 amended by inserting a new section 612 to subchapter II of
3 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 interstate
10 transportation of goods or people for commercial
11 gain.

12 (3) "Exploitation" means:

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

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

18 (c) slavery or practices similar to slavery.

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

1 by a child at the behest of a parent or legal guardian.

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

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

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

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

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

25 "Section 614. Offense of aggravated human smuggling.

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

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

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

1 less than \$5,000 but not more than \$25,000, or both."

2 Section 8. Title 11 of the Code of the Federated States of
3 Micronesia, as amended by Public Law No. 11-72, is hereby further
4 amended by inserting a new section 616 to subchapter II of
5 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 this
11 offense shall be imprisoned for not more than 30 years,
12 or fined not less than \$5,000 but not more than
13 \$50,000, or both."

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

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

24 (a) the offense involves serious injury or death
25 of the victim or another person;

1 (b) the offense involves a victim who is
2 particularly vulnerable, including a pregnant woman;

3 (c) the offense exposed the victim to a life-
4 threatening illness, including HIV/AIDS;

5 (d) the victim is physically or mentally
6 handicapped;

7 (e) the offense involves more than one victim;

8 (f) the crime was committed as part of the
9 activity of an organized criminal group;

10 (g) drugs, medications or weapons were used in
11 the commission of the crime;

12 (h) a child was adopted for the purpose of
13 trafficking;

14 (i) the offender has been previously convicted
15 for the same or similar offenses;

16 (j) the offender is a public official;

17 (k) the offender is a spouse or the conjugal
18 partner of the victim;

19 (l) the offender is in a position of
20 responsibility or trust in relation to the victim;

21 (m) the offender is in a position of authority
22 concerning a child victim.

23 Upon conviction, a person guilty of this offense shall
24 be imprisoned for not more than 30 years, or fined not
25 less than \$5,000 but not more than \$50,000, or both."

1 Section 10. Title 11 of the Code of the Federated States of
2 Micronesia, as amended by Public Law No. 11-72, is hereby further
3 amended by inserting a new section 618 to subchapter II of
4 chapter 6, to read as follows:

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

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

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

21 Section 12. Title 11 of the Code of the Federated States of
22 Micronesia, as amended by Public Law No. 11-72, is hereby further
23 amended by inserting a new section 620 to subchapter II of
24 chapter 6, to read as follows:

25 "Section 620. Rights of Victims.

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

3 (a) the act of human trafficking;

4 (b) that person's entry into the receiving
5 country;

6 (c) that person's unlawful residence in the
7 receiving country; and

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

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

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

20 (b) providing victims with the opportunity to
21 present their views, needs, interests and concerns for
22 consideration at appropriate stages of any judicial or
23 administrative proceedings relating to the offense,
24 either directly or through their representative,
25 without prejudice to the rights of the defense;

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

8 (d) where the victim is a national of the
9 Federated States of Micronesia, facilitating and
10 accepting the return of the victim without undue or
11 unreasonable delay and with due regard for his or her
12 rights and safety;

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

21 (f) providing information to all victims on the
22 nature of protection, assistance and support to which
23 they are entitled and the possibilities of assistance
24 and support by non•governmental organizations and other
25 victim agencies, as well as information on any legal

1 proceedings related to them. Such information shall be
2 provided in a language and form that the victim
3 understands."

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

8 "Section 621. Scope of application. The offenses
9 defined in this chapter shall apply regardless of
10 whether the conduct constituting an offense took place
11 inside or outside the jurisdiction of the Federated
12 States of Micronesia if:

13 (1) the Federated States of Micronesia is the
14 receiving country, or if the exploitation occurs
15 herein; or

16 (2) the acts or conduct constituting an offense
17 under this chapter started, ended or occurred in part
18 in the jurisdiction of the Federated States of
19 Micronesia; or

20 (3) the offense is committed by a national of the
21 Federated States of Micronesia or by a person who is
22 not a citizen of any country but has his or her
23 habitual residence in the Federated States of
24 Micronesia at the time of the commission of the
25 offense; or

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

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

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

18 Section 15. Title 11 of the Code of the Federated States of
19 Micronesia, as amended by Public Law No. 11-72, is hereby further
20 amended by inserting a new section 623 to subchapter II of
21 chapter 6, to read as follows:

22 "Section 623. Obligation of commercial carriers.

23 (1)A commercial carrier shall verify that every
24 passenger possesses the necessary travel documents,
25 including passports, visas and other supporting papers,

1 to enter the destination country and any transit
2 countries.

3 (2) The requirement in subsection (1) of this
4 section applies both to staff of the commercial
5 carrier selling or issuing tickets, boarding passes or
6 similar travel documents and to staff collecting or
7 checking tickets prior to or subsequent to boarding.

8 (3) Commercial carriers, or persons referred to under
9 subsection (2) of this section, which fail to comply
10 with the requirements of this section shall be fined
11 \$1,000 for every passenger. Repeated failure to comply
12 may be sanctioned by revocation of license, permit,
13 certificate or authority to operate.”

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21 Section 16. 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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March 16 _____, 2012

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/s/ Manny Mori _____

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Manny Mori

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President

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Federated States of Micronesia

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