

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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