

TITLE 1

GENERAL PROVISIONS

CHAPTERS

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Editor's note: Users of this 2014 FSM Code Annotated (FSMCA) should refer to the Introduction to this Code for a complete description of how the 2014 FSMCA was updated and published, and for other information on the legal status of this Code and its provisions.

CHAPTER 1

Bill of Rights

SECTIONS

- § 101. Freedom of religion, speech and press; Right of assembly and petition.**
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- § 103. Unreasonable search and seizure.
- § 104. Due process of law; Double jeopardy; Self-incrimination; Trial; Assistance of counsel; Capital punishment.
- § 105. Bills of attainder, etc.
- § 106. Excessive bail; Excessive fines; Cruel and unusual punishments.
- § 107. Discrimination on account of race, sex, language or religion; Equal protection.
- § 108. Freedom of migration and movement.
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- § 110. Imprisonment for failure to discharge contractual obligation.
- § 111. Writ of *habeas corpus*.
- § 112. Quartering of soldiers.
- § 113. Trade and property rights.
- § 114. Local customs.

Case annotation: Statutory provisions which carried over from the Trust Territory Code and were reproduced and referred to as a "Bill of Rights" in 1 F.S.M.C. 101-114, may retain some residual vitality in the unlikely event that they furnish protections beyond those available under the FSM Constitution's Declaration of Rights. *FSM v. George*, 1 FSM R. 449, 454-55 (Kos. 1984).

§ 101. Freedom of religion, speech and press; Right of assembly and petition.

No law shall be enacted in the Trust Territory respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech, or of the press, or the right of the people to peaceably assemble and to petition the Government for a redress of grievances.

Source: TT Code 1966 § 1; TT Code 1970, 1 TTC 1; TT Code 1980, 1 TTC 1.

Cross-reference: FSM Const., art. IV, §§ 1, 2. The provisions of the Constitution are found in Part I of this code.

§ 102. Slavery and involuntary servitude.

Neither slavery nor involuntary servitude, except as punishment for crime whereof the party shall have been duly convicted, shall exist in the Trust Territory.

Source: TT Code 1966 § 2; TT Code 1970, 1 TTC 2; TT Code 1980, 1 TTC 2.

Cross-reference: FSM Const., art. IV, § 10. The provisions of the Constitution are found in Part I of this code.

§ 103. Unreasonable search and seizure.

The rights of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures shall not be violated, and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized.

Source: TT Code 1966 § 3; TT Code 1970, 1 TTC 3; TT Code 1980, 1 TTC 3.

Cross-reference: FSM Const., art. IV, § 5. The provisions of the Constitution are found in Part I of this code.

For provisions on Searches and Seizures, see chapter 3 of title 12 (Criminal Procedure) of this code; for provisions on Seizure and Forfeiture Proceedings, see subchapter II of chapter 3 (Regulation of Foreign Vessels) of title 19 (Admiralty and Maritime) of this code.

Case annotations: Statutory provisions which carried over from the Trust Territory Code and were reproduced and referred to as a "Bill of Rights" in 1 F.S.M.C. 101-114, may retain some residual vitality in the unlikely event that they furnish protections beyond those available under the Constitution's Declaration of Rights. *FSM v. George*, 1 FSM R. 449, 454-55 (Kos. 1984).

The principal difference between FSM Const., art. IV, § 5 and 1 F.S.M.C. 103 is that the Constitution, in addition to prohibiting unreasonable searches and seizures also contains a prohibition against invasions of privacy. *FSM v. George*, 1 FSM R. 449, 455 n. 1 (Kos. 1984).

§ 104. Due process of law; Double jeopardy; Self-incrimination; Trial; Assistance of counsel; Capital punishment.

No person shall be deprived of life, liberty, or property without due process of law; nor shall private property be taken for public use without just compensation; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall any person be compelled in any criminal case to be a witness against himself. In all criminal prosecutions the accused shall enjoy the right to a speedy public trial; to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and to have the assistance of counsel for his defense. No crime under the laws of the Trust Territory shall be punishable by death.

Source: TT Code 1966 § 4; TT Code 1970, 1 TTC 4; TT Code 1980, 1 TTC 4.

Cross-reference: FSM Const., art. IV, §§ 3, 6, 7, 9. The provisions of the Constitution are found in Part I of this code.

For provisions on Rights of Persons Arrested, see § 218 of title 12 (Criminal Procedure) of this code; for provisions on Rights of Defendants Enumerated, see § 401 of title 12 (Criminal Procedure) of this code; for provisions on eminent domain, see title 56 (Government Property Acquisition) of this code.

Case annotations: Statutory provisions which carried over from Trust Territory Code and were reproduced and referred to as a "Bill of Rights" in 1 F.S.M.C. 101-114, may retain some residual vitality in the unlikely event that they furnish protections beyond those available under the Constitution's Declaration of Rights. *FSM v. George*, 1 FSM R. 449, 454-55 (Kos. 1984).

§ 105. Bills of attainder, etc.

No bill of attainder, *ex post facto* law, or law impairing the obligations of contracts shall be enacted.

Source: TT Code 1966 § 5; TT Code 1970, 1 TTC 5; TT Code 1980, 1 TTC 5.

Cross-reference: FSM Const., art. IV, § 11. The provisions of the Constitution are found in Part I of this code.

§ 106. Excessive bail; Excessive fines; Cruel and unusual punishments.

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Source: TT Code 1966 § 6; TT Code 1970, 1 TTC 6; TT Code 1980, 1 TTC 6.

Cross-reference: FSM Const., art. IV, § 8. The provisions of the Constitution are found in Part I of this code.

For provisions on Sentencing, see chapter 12 of title 11 (Crimes) of this code; for provisions on Bail, see chapter 6 of title 12 (Criminal Procedure) of this code.

§ 107. Discrimination on account of race, sex, language, or religion; Equal protection.

No law shall be enacted in the Trust Territory which discriminates against any person on account of race, sex, language, or religion, nor shall the equal protection of the laws be denied.

Source: TT Code 1966 § 7; TT Code 1970, 1 TTC 7; TT Code 1980, 1 TTC 7.

Cross-reference: FSM Const., art. IV, § 4. The provisions of the Constitution are found in Part I of this code.

Case annotations: Statutory provisions which carried over from the Trust Territory Code and were reproduced and referred to as a "Bill of Rights" in 1 F.S.M.C. 101-114, may retain some residual vitality in the unlikely event that they furnish protections beyond those available under the Constitution's Declaration of Rights. *FSM v. George*, 1 FSM R. 449, 454-55 (Kos. 1984).

§ 108. Freedom of migration and movement.

Subject only to the requirements of public order and security, the inhabitants of the Trust Territory shall be accorded freedom of migration and movement within the Trust Territory.

Source: TT Code 1966 § 8; TT Code 1970, 1 TTC 8; TT Code 1980, 1 TTC 8.

Cross-reference: FSM Const., art. IV, § 12. The provisions of the Constitution are found in Part I of this code.

§ 109. Education.

Free elementary education shall be provided throughout the Trust Territory.

Source: TT Code 1966 § 9; TT Code 1970, 1 TTC 9; TT Code 1980, 1 TTC 9.

Cross-reference: FSM Const., art. IX, § 2(r), as amended, states as follows:

Section 2. The following powers are expressly delegated to Congress:

...

(r) to promote education and health by setting minimum standards, coordinating state activities relating to foreign assistance, providing training and assistance to the states and providing support for post-secondary educational programs and projects.

...

FSM Const., art. XIII, § 1 states as follows:

Section 1. The national government of the Federated States of Micronesia recognizes the right of the people to education, health care, and legal services and shall take every step reasonable and necessary to provide these services.

For statutory provisions relating to Education, see of title 40 of this code.

§ 110. Imprisonment for failure to discharge contractual obligation.

No person shall be imprisoned solely for failure to discharge a contractual obligation.

Source: TT Code 1966 § 10; TT Code 1970, 1 TTC 10; TT Code 1980, 1 TTC 10.

Cross-reference: FSM Const., art. IV, § 13. The provisions of the Constitution are found in Part I of this code.

§ 111. Writ of *habeas corpus*.

The privilege of the writ of *habeas corpus* shall not be suspended unless, when in cases of rebellion or invasion or imminent danger thereof, the public safety shall require it.

Source: TT Code 1966 § 11; TT Code 1970, 1 TTC 11; TT Code 1980, 1 TTC 11.

Cross-reference: FSM Const., art. IV, § 8. The provisions of the Constitution are found in Part I of this code.

For general provisions relating to *habeas corpus*, see §§ 1503 to 1510 of title 6 (Crimes) of this code.

Case annotations: Statutory provisions which carried over from the Trust Territory Code and were reproduced and referred to as a "Bill of Rights" in 1 F.S.M.C. 101-114, may retain some residual vitality in the unlikely event that they furnish protections beyond those available under the Constitution's Declaration of Rights. *FSM v. George*, 1 FSM R. 449, 454-55 (Kos. 1984).

§ 112. Quartering of soldiers.

No soldier shall in time of peace be quartered in any house without the consent of the owner, nor in time of war but in a manner to be prescribed by law.

Source: TT Code 1966 § 12; TT Code 1970, 1 TTC 12; TT Code 1980, 1 TTC 12.

§ 113. Trade and property rights.

Subject to applicable laws of the Trust Territory, the High Commissioner may restrict or forbid the acquisition of interests in real property and in business enterprises by persons who are not citizens of the Trust Territory.

Source: TT Code 1966 § 13; COM PL 3C-50 § 20; TT Code 1970, 1 TTC 13; TT Code 1980, 1 TTC 13.

§ 114. Local customs.

Due recognition shall be given to local customs in providing a system of law, and nothing in this chapter shall be construed to limit or invalidate any part of the existing customary law, except as otherwise provided by law.

Source: TT Code 1966 § 14; TT Code 1970, 1 TTC 14; TT Code 1980, 1 TTC 14.

Cross-reference: For constitutional guarantee of traditional rights, see FSM Const., art. V and art. XI, § 11. The provisions of the Constitution are found in Part I of this code.

For the statutory provision on Local Customs; Customary Law, see § 202 of this title; for provisions on recognition of local custom in annulment, divorce or adoption proceedings, see § 1614 of title 6 (Judicial Procedure) of this code; for provisions on recognition of local custom in criminal prosecutions, see § 108 of title 11 (Crimes) of this code; for provisions on local custom in criminal sentencing, see § 1203 of title 11 (Crimes) of this code.

Case annotations: Statutory provisions which carried over from the Trust Territory Code and were reproduced and referred to as a "Bill of Rights" in 1 F.S.M.C. 101-114, may retain some residual vitality in the unlikely event that they furnish protections beyond those available under the Constitution's Declaration of Rights. *FSM v. George*, 1 FSM R. 449, 454-55 (Kos. 1984).

Under appropriate circumstances customary law may assume importance equal to or greater than particular written provisions in the National Criminal Code. 11 F.S.M.C. 108; *FSM v. Mudong*, 1 FSM R. 135, 139-40 (Pon. 1982).

Customary law is placed in neither an overriding nor inferior position by the FSM Constitution and statutes. *FSM v. Mudong*, 1 FSM R. 135, 139 (Pon. 1982).

Even where the parties have not asserted that any principle of custom or tradition applies, the Court has an obligation of its own to consider custom and tradition. *Semens v. Continental Air Lines, Inc. (I)*, 2 FSM R. 131, 140 (Pon. 1985).