

CHAPTER 5

Crimes Against Public Administration

SUBCHAPTER I

Obstructing Government Operations

SECTIONS

- § 501. Obstructing a public official in discharge of duties.**
- § 502. Resisting arrest or other law enforcement.**
- § 503. Hindering apprehension or prosecution.**
- § 504. Compounding.**
- § 505. Escape.**
- § 506. Implements for escape and other contraband.**
- § 507. Bail jumping; Default in required appearance.**
- § 508. Disrupting Government meetings.**
- § 509. Flight to avoid prosecution or giving testimony.**

SUBCHAPTER II

Public Officials Code of Conduct

SECTIONS

- § 510. Policy.**
- § 511. Definitions.**
- § 512. Conflict of interest.**
- § 513. Disqualification of former public official.**

SUBCHAPTER III

Public Corruption

SECTIONS

- § 514. Official oppression.**
- § 515. Speculating or wagering on official action or information.**
- § 516. Bribery in official and political matters.**
- § 517. Threats and other improper influence in official and political matters.**
- § 518. Retaliation for past official action.**
- § 519. Gifts to public servants by persons subject to their jurisdiction.**
- § 520. Compensating public servant for assisting private interests in relation to matters before him.**
- § 521. Selling political endorsement; Special influence.**

SUBCHAPTER IV

Perjury and Related Crimes of Falsification

SECTIONS

- § 522. Perjury.**
- § 523. False swearing in official matters.**
- § 524. Unsworn falsification to authorities.**
- § 525. Limitations on prosecutions of perjury and related offenses.**
- § 526. Tampering with witnesses and informants.**
- § 527. Retaliation against witness or informant.**
- § 528. Tampering with or fabricating physical evidence.**
- § 529. Tampering with public records or information.**
- § 530. Impersonating a public servant.**

SUBCHAPTER I

Obstructing Government Operations

Editor's note: Former chapter 5 of this title on Offenses Against Public Administration was repealed in its entirety by PL 11-72 § 1. This new chapter 5 was enacted by PL 11-72 § 30 and is part of the Revised Criminal Code Act.

§ 501. Obstructing administration of law or other governmental function.

- (1) A person commits a crime if he or she wilfully interferes with, delays, or obstructs a public official in the discharge or attempted discharge of any duty of his or her office.
- (2) A person convicted under this section shall be punished by imprisonment for not more than one year.

Source: PL 11-72 § 32.

Cross-reference: The statutory provisions on the President and the Executive are found in title 2 of this code. The statutory provisions on the Congress of the Federated States of Micronesia are found in title 3 of this code. The statutory provisions on the FSM Supreme Court and the Judiciary are found in title 4 of this code.

The website of the FSM National Government contains announcements, press releases, news, forms, and other information on the National Government at <http://fsmgov.org>.

The FSM Supreme Court website contains court decisions, rules, calendar, and other information of the court, the Constitution, the code of the Federated States of Micronesia, and other legal resource information at <http://www.fsmsupremecourt.org/>.

The official website of the Congress of the Federated States of Micronesia contains the public laws enacted by the Congress, sessions, committee hearings, rules, and other Congressional information at <http://www.fsmcongress.fm/>.

Case annotations: A police vehicle being used to transport an arrested person from the police station to the jail is a custodial facility within the meaning of 11 F.S.M.C. 505(3), and a person who, having been informed that he is under arrest, flees from such a vehicle and the custody of a police officer authorized to detain or arrest persons on behalf of the Federated States of Micronesia, is guilty of an escape under 11 F.S.M.C. 501(1). *Doone v. FSM*, 2 FSM R. 103, 106 (App. 1985).

§ 502. Resisting arrest or other law enforcement.

- (1) A person commits a crime if, for the purpose of preventing a public official from effecting a lawful arrest or discharging any other duty, the person creates a substantial risk of bodily injury to the public official or anyone else, or employs means justifying or requiring substantial force to overcome the resistance.
- (2) A person convicted under this section shall be punished by imprisonment for not more than five years.

Source: PL 11-72 § 33.

§ 503. Hindering apprehension or prosecution.

(1) A person commits a crime if, with purpose to hinder the apprehension, prosecution, conviction, or punishment of another for a national crime he or she:

(a) harbors or conceals the other;

(b) provides or aids in providing a weapon, transportation, disguise, or other means of avoiding apprehension or effecting escape;

(c) conceals or destroys evidence of the crime, or tampers with a witness, informant, document, or other source of information, regardless of its admissibility in evidence;

(d) warns the other of impending discovery or apprehension, except that this paragraph does not apply to a warning given in connection with an effort to bring another into compliance with law; or

(e) volunteers false information to any law enforcement officer.

(2) A person convicted under this section shall be imprisoned:

(a) for not more than five years if the conduct which the defendant knows has been charged or is liable to be charged against the person aided is punishable by imprisonment for ten or more years;

(b) otherwise, for not more than one year.

Source: PL 11-72 § 34.

§ 504. Compounding.

(1) A person commits a crime if he or she accepts or agrees to accept any pecuniary benefit in consideration of refraining from reporting to law enforcement authorities the commission or suspected commission of any national crime or information relating to such a crime, or from cooperating with prosecution of such a crime. It is a defense to prosecution under this section that the pecuniary benefit did not exceed an amount which the defendant believed to be due as restitution or indemnification for harm caused by the offense.

(2) A person convicted under this section shall be punished by imprisonment for not more than one year.

Source: PL 11-72 § 35.

§ 505. Escape.

(1) A person commits the crime of escape if he or she unlawfully removes himself or herself from official detention or fails to return to official detention following temporary leave granted for a specific purpose or limited period. "Official detention" means arrest and detention in any facility for custody of persons under charge or conviction of a national crime, under detention for extradition or deportation, or any other detention for law enforcement purposes. The term "official detention" shall apply only to detention by a public servant of the Federated States of Micronesia, or by any other person legally authorized or empowered to arrest or detain on behalf of the Federated States of Micronesia. "Official detention" does not include supervision of probation or parole, or constraint incidental to release on bail.

(2) A public servant involved in detention commits a crime if he or she knowingly permits an escape or attempt to escape.

(3) Any person who knowingly causes or facilitates an escape or attempt to escape commits a crime. "Facilitating" includes providing any assistance necessary for an escape or attempt to escape.

(4) Irregularity in bringing about or maintaining detention, or lack of jurisdiction of the committing or detaining authority, shall not be a defense to prosecution under this section if the escape is from a prison or other custodial facility or from detention pursuant to commitment by official proceedings. In the case of other detentions, irregularity or lack of jurisdiction shall be a defense only if:

(a) the escape involved no substantial risk of harm to the person or property of anyone other than the defendant; or

(b) the detaining authority did not act in good faith under the color of law.

(5) A person convicted under this section shall be imprisoned:

(a) for not less than six months and not more than ten years if the escaping inmate employs force, a deadly weapon, or other dangerous instrumentality to make the escape; or

(b) otherwise, for not more than three years.

(6) Any sentence imposed under this section shall be served consecutive to all other criminal penalties imposed on the defendant.

Source: PL 11-72 § 36.

Case annotations: The case annotations found throughout this title may refer to the earlier provisions of the National Criminal Code that were repealed by PL 11-72, the Revised Criminal Code. These annotations are retained for reference purposes as some of the language of the Revised Criminal Code is similar to the language of the former National Criminal Code.

A police vehicle being used to transport an arrested person from the police station to the jail is a custodial facility within the meaning of 11 F.S.M.C. 505(3), and a person who, having been informed that he is under arrest, flees from such a vehicle and the custody of a police officer authorized to detain or arrest persons on behalf of the Federated States of Micronesia, is guilty of an escape under 11 F.S.M.C. 505(1). *Doone v. FSM*, 2 FSM R. 103, 106 (App. 1985).

Illegality of arrest or detention is no defense to a charge that one has unlawfully escaped from a custodial facility. *Doone v. FSM*, 2 FSM R. 103, 106 (App. 1985).

Escape from state police officers, authorized by a Joint Law Enforcement Agreement Between the National Government and the State to detain and arrest persons on behalf of the FSM, can be the foundation for an escape conviction under 11 F.S.M.C. 505(1), without regard to whether the detention was for a major crime. *Doone v. FSM*, 2 FSM R. 103, 106 (App. 1985).

The national escape statute's requirements are met where an escaped defendant was being held for law enforcement purposes by state police officers authorized to detain on behalf of the FSM. 11 F.S.M.C. 505. *FSM v. Doone*, 1 FSM R. 365, 367 (Pon. 1983).

A prisoner held illegally in a custodial facility is never permitted to escape. 11 F.S.M.C. 505(3). *FSM v. Doone*, 1 FSM R. 365, 368 (Pon. 1983).

Outside of a custodial facility, one illegally detained by a law officer acting in good faith is entitled to escape only if he can do so with "no substantial risk of harm to the person or property of anyone other than the defendant." *FSM v. Doone*, 1 FSM R. 365, 368 (Pon. 1983).

The law generally requires that a prisoner test the legality of his detention in a court of law rather than attempt to enforce his own claim to freedom. *FSM v. Doone*, 1 FSM R. 365, 368 (Pon. 1983).

To minimize disruption and challenges to official police authority, the statutory exceptions to prohibitions against escape should be read restrictively. 11 F.S.M.C. 505. *FSM v. Doone*, 1 FSM R. 365, 368-69 (Pon. 1983).

A police car being used to maintain custody as well as transport a detainee from one custodial facility to another is a custodial facility within the meaning of 11 F.S.M.C. 505(3). *FSM v. Doone*, 1 FSM R. 365, 369 (Pon. 1983).

In the absence of any explanation in the legislative history or from the government to justify a different interpretation, the only apparent reason for the deletion of the words "alleged to be found delinquent" from the Model Penal Code definition of official detention is that Congress wished to exclude detained juveniles from the national prohibitions against escape. 11 F.S.M.C. 505(1). *In re Cantero*, 3 FSM R. 481, 484 (Pon. 1988).

Juveniles alleged or found to be delinquent children are not under "official detention" within the meaning of 11 F.S.M.C. 505(1). *In re Cantero*, 3 FSM R. 481, 484 (Pon. 1988).

§ 506. Implements for escape; Other contraband.

(1) A person commits a crime if:

(a) he or she unlawfully introduces, within a detention facility, or unlawfully provides an inmate of a detention facility with any weapon, tool, or other thing which may be useful for escape; or

(b) being an inmate of a detention facility, he or she unlawfully procures, makes, or otherwise provides himself or herself with, or has in his or her possession, any weapon, tool, or other thing which may be useful for escape.

(2) A person commits a crime if:

(a) he or she provides an inmate of a detention facility with anything which the defendant knows the

inmate may not lawfully possess; or

(b) being an inmate of a detention facility, he or she unlawfully procures, makes, or otherwise provides himself or herself with, or has in his or her possession, anything which he or she knows is unlawful to possess.

(3) "Detention facility" refers only to a detention facility owned or operated by the Federated States of Micronesia, or to any other detention facility if the inmate is detained therein pursuant to an arrest, charge, or conviction for a national crime, or to an accusation or adjudication of delinquency based upon a national crime, or detained for extradition or deportation purposes.

(4) "Unlawfully" means surreptitiously or contrary to law, regulation, or order of the detaining authority.

(5) A person convicted under this section shall be imprisoned for not more than ten years if the unlawful item provided or possessed was a deadly weapon. Otherwise, a person convicted under this section shall be imprisoned for not more than three years.

Source: PL 11-72 § 37.

§ 507. Bail jumping; Default in required appearance.

(1) A person set at liberty by court order, with or without bail, upon condition that he or she will subsequently appear at a specified time and place, commits a crime if, without lawful excuse, he or she fails to appear at that time and place.

(2) This section shall apply only to persons whose detention was based upon a charge or conviction for a national crime, or upon an accusation or adjudication of delinquency based upon a national crime, or whose detention was for extradition or deportation purposes, except that this section does not apply to obligations to appear incident to release under suspended sentence or on probation or parole.

(3) A person convicted under this section shall be imprisoned:

(a) for not more than three years if the required appearance was to answer to a charge of felony, or for disposition of any such charge, and the defendant took flight or went into hiding to avoid apprehension, trial, or punishment;

(b) otherwise, by imprisonment for not more than one year.

Source: PL 11-72 § 38.

§ 508. Disrupting Government meetings.

(1) A person commits a crime if, with intent to prevent or substantially disrupt, or recklessly creating a risk thereof, or after a reasonable warning or request to desist has been made, he or she continues in conduct which prevents or substantially disrupts any official proceeding or any meeting, ceremony, procession, or other official gathering of the Federated States of Micronesia, and he or she:

(a) does any act which physically obstructs or interferes with the gathering;

- (b) engages in fighting or in violent behavior;
 - (c) addresses abusive language to any person present, which is likely to provoke a violent response;
- or
- (d) creates a hazardous or physically offensive condition by any act which is not performed under any authorized license or permit.
- (2) A person convicted under this section shall be imprisoned for not more than one year.

Source: PL 11-72 § 39.

§ 509. Flight to avoid prosecution or giving testimony.

- (1) A person commits a crime if he or she moves or travels in interstate or foreign commerce with intent either:
- (a) to avoid prosecution, or custody, or confinement after conviction, under the laws of the jurisdiction from which the fugitive flees, for a crime or an attempt to commit a crime which is a felony under the laws of the jurisdiction from which the fugitive flees;
 - (b) to avoid giving testimony in any criminal proceedings in such jurisdiction in which the commission of a crime which is a felony under the laws of such jurisdiction is charged; or
 - (c) to avoid service of, or contempt proceedings for alleged disobedience of, lawful process requiring attendance and the giving of testimony or the production of documentary evidence before an agency of a jurisdiction empowered by the law of such jurisdiction to conduct investigations of alleged criminal activities.
- (2) A person convicted under this section shall be imprisoned:
- (a) for not more than three years if the required appearance was to answer to a charge of a felony, or for disposition of any such charge, and the defendant took flight or went into hiding to avoid apprehension, trial, or punishment;
 - (b) otherwise, by imprisonment for not more than one year.
- (3) Violations of this section may be prosecuted only in the Federated States of Micronesia Supreme Court sitting in the State in which the original crime was alleged to have been committed, or in which the person was held in custody or confinement, or in which an avoidance of service of process or a contempt referred to in subsection (1)(c) of this section is alleged to have been committed, and only upon formal approval in writing by the Secretary of the Department of Justice, or an assistant Attorney General of the Federated States of Micronesia, whose function of approving prosecutions may not be delegated.

Source: PL 11-72 § 40.

SUBCHAPTER II

Public Officials Code of Conduct

§ 510. Policy.

Inherent in the success of any democracy is the trust of its citizens in the honesty and integrity of its public officials. To encourage such trust and insure the integrity of public office, a standardized code of conduct is needed. A public official must conduct himself or herself in such a way, in both public and private life, so as not to:

- (1) place himself or herself in a position in which there exists a conflict of interest or in which the fair exercise of his or her public or official duties might be compromised;
- (2) demean his or her office or position;
- (3) call into question his or her integrity;
- (4) endanger or diminish respect for or confidence in the integrity of the Federated States of Micronesia, National Government; or
- (5) actually use or give the appearance of using his or her public office for personal gain.

Source: PL 11-72 § 42.

Cross-reference: The statutory provisions on the President and the Executive are found in title 2 of this code. The statutory provisions on the Congress of the Federated States of Micronesia are found in title 3 of this code. The statutory provisions on the FSM Supreme Court and the Judiciary are found in title 4 of this code.

The website of the FSM National Government contains announcements, press releases, news, forms, and other information on the National Government at <http://fsmgov.org>.

The FSM Supreme Court website contains court decisions, rules, calendar, and other information of the court, the Constitution, the code of the Federated States of Micronesia, and other legal resource information at <http://www.fsmsupremecourt.org/>.

The official website of the Congress of the Federated States of Micronesia contains the public laws enacted by the Congress, sessions, committee hearings, rules, and other Congressional information at <http://www.fsmcongress.fm/>.

§ 511. Definitions.

The definitions in this section shall apply throughout this title, unless otherwise specified or a different meaning is plainly required.

- (1) "Benefit" shall mean gain or advantage of any kind, and shall include financial gain, property, service, or improvement of condition.
- (2) "Business" shall mean businesses of any kind whether situated in the Federated States of Micronesia or elsewhere and whether incorporated or not.

(3) "Family member" shall mean a parent, brother, sister, spouse, nephew, niece or child, including a person who is adopted legally or in accordance with custom, or for whom care was given by the public official such that there exists a relationship in the nature of parent and child. The term shall also include a spouse of any person referred to in this definition and their children.

(4) "Interest" shall mean either direct ownership of, indirect ownership of, shares in, financial benefit from, or complete or partial control of, such property or business.

(5) "National Government" shall mean the National Government of the Federated States of Micronesia, including any department, agency or branch thereof.

(6) "Property" shall mean real or personal property of every description whether situated in the Federated States of Micronesia or elsewhere.

Source: PL 11-72 § 43; PL 11-76 § 5.

§ 512. Conflict of interest.

(1) A public official who willingly participates in a matter in which he or she knows or reasonably should know there exists a conflict of interest commits a crime.

(2) A public official has a conflict of interest in a matter if the public official or a family member could benefit directly or indirectly from a decision on a matter over which that public official has influence or control, or if a matter over which that public official has influence or control relates in any way to:

(a) a business or property the public official directly or indirectly owns or controls;

(b) a business or property owned or controlled, directly or indirectly, by a family member of the public official; or

(c) a business or property in which the public official has a beneficial interest of any kind, whether through a trust or otherwise.

(3) Nothing in this section is meant to interfere with the right of a public official or the family members of a public official to participate in public elections or in decisions of a community or group nature.

(4) A person convicted under this section shall be imprisoned for not more than five years.

Source: PL 11-72 § 44.

§ 513. Disqualification of former public officials.

(1) A public official who, within one year of the termination of his employment with or appointment to the National Government, knowingly acts as agent or attorney for anyone other than the branch of the National Government or its entity in connection with any judicial or other matter involving a specific party or parties in which the branch of the National Government or its entity is a party or has a direct and substantial interest, and in which that person participated personally and substantially as an officer or employee, commits a crime.

(2) Any person who is a business partner or family member of a public official and who acts as agent or attorney for anyone other than the branch of the National Government or its entity in connection with any judicial or other matter in which the branch of the National Government or its entity is a party or has a direct and substantial interest and in which such public official participates or has participated personally and substantially in the conduct of his or her official duties, or which is the subject of his or her official responsibility, commits a crime.

(3) A person convicted under this section shall be imprisoned:

(a) for not more than five years if the person is a former public official found guilty of a violation of subsection (1) of this section;

(b) otherwise, for not more than one year.

Source: PL 11-72 § 45.

SUBCHAPTER III

Public Corruption

§ 514. Official oppression.

(1) A person acting or purporting to act in an official capacity on behalf of the Federated States of Micronesia, or taking advantage of such actual or purported capacity, commits a crime if, knowing that his or her conduct is illegal, he or she:

(a) subjects another to arrest, detention, search, seizure, mistreatment, dispossession, assessment, lien, or other infringement of personal or property rights; or

(b) denies or impedes another in the exercise or enjoyment of any right, privilege, power, or immunity.

(2) A person convicted under this section shall be imprisoned for not more than ten years, and shall be disqualified from holding any position in the National Government.

Source: PL 11-72 § 47.

Cross-reference: The statutory provisions on the President and the Executive are found in title 2 of this code. The statutory provisions on the Congress of the Federated States of Micronesia are found in title 3 of this code. The statutory provisions on the FSM Supreme Court and the Judiciary are found in title 4 of this code.

The website of the FSM National Government contains announcements, press releases, news, forms, and other information on the National Government at <http://fsmgov.org>.

The FSM Supreme Court website contains court decisions, rules, calendar, and other information of the court, the Constitution, the code of

the Federated States of Micronesia, and other legal resource information at <http://www.fmsupremecourt.org/>.

The official website of the Congress of the Federated States of Micronesia contains the public laws enacted by the Congress, sessions, committee hearings, rules, and other Congressional information at <http://www.fsmcongress.fm/>.

§ 515. Speculating or wagering on official action or information.

(1) A public official commits a crime if, in contemplation of official action by himself or herself, or by a governmental unit with which he or she is associated, or in reliance on information to which he or she has access in his or her official capacity and which has not been made public, he or she:

- (a) acquires a pecuniary interest in any property, transaction, or enterprise which may be affected by such information or official action;
- (b) speculates or wagers on the basis of such information or official action; or
- (c) aids another to do any of the foregoing.

(2) A person convicted under this section shall be imprisoned for not more than ten years, and shall be disqualified from holding any position in the National Government.

Source: PL 11-72 § 48.

§ 516. Bribery in official and political matters.

(1) A person commits the crime of bribery if he or she offers, confers, or agrees to confer upon another, or solicits, accepts, or agrees to accept from another:

- (a) any pecuniary benefit as consideration for the recipient's decision, opinion, recommendation, vote, or other exercise of discretion as a public official, or as a voter in any election, referendum, or plebiscite of the Federated States of Micronesia;
- (b) any benefit as consideration for the recipient's decision, vote, recommendation, or other exercise of official discretion as a public official in a judicial or administrative proceeding; or
- (c) any benefit as consideration for a violation of a known legal duty as a public official.

(2) For the purpose of this section, "public servant" or "public official" includes, in addition to those persons who are defined as such under section 104 of this title, persons who have been elected, appointed, hired or designated to become a public official although not yet occupying that position.

(3) A person convicted under this section shall be imprisoned for not more than ten years, and shall be disqualified from holding any position in the National Government.

Source: PL 11-72 § 49.

§ 517. Threats and other improper influence in official and political matters.

(1) A person commits a crime if he or she:

(a) threatens unlawful harm to any person with purpose to influence his or her decision, opinion, recommendation, vote, or other exercise of discretion as a public official, or a voter in any election, referendum, or plebiscite of the Federated States of Micronesia;

(b) threatens harm to any public official with purpose to influence his or her decision, opinion, recommendation, vote, or other exercise of discretion in a judicial or administrative proceeding;

(c) threatens harm to any public official with purpose to influence him or her to violate his or her known legal duty; or

(d) privately addresses to any public official who has or will have an official discretion in a judicial or administrative proceeding any representation, entreaty, argument, or other communication with the purpose to influence the outcome on the basis of considerations other than those authorized by law.

(2) It is no defense to prosecution under this section that a person whom the defendant sought to influence was not qualified to act in the desired way, whether because he or she had not yet assumed office, or lacked jurisdiction, or for any other reason.

(3) A person convicted under this section shall be punished:

(a) by imprisonment for not more than ten years if the defendant threatened to commit a crime or made a threat with the purpose to influence a judicial or administrative proceeding;

(b) otherwise, by imprisonment for not more than five years.

Source: PL 11-72 § 50.

Cross-reference: The statutory provisions on the President and the Executive are found in title 2 of this code. The statutory provisions on the Congress of the Federated States of Micronesia are found in title 3 of this code. The statutory provisions on the FSM Supreme Court and the Judiciary are found in title 4 of this code.

§ 518. Retaliation for past official action.

(1) A person commits a crime if he or she harms another by any unlawful act in retaliation for anything lawfully done by the latter in the capacity of public official.

(2) A person convicted under this section shall be imprisoned for not more than ten years.

Source: PL 11-72 § 51.

§ 519. Gifts to public servants by persons subject to their jurisdiction.

(1) A public official in any department or agency exercising regulatory functions, or conducting inspections or investigations, or carrying on civil or criminal litigation on behalf of the Government, or having custody of prisoners, commits a crime if he or she solicits, accepts, or agrees to accept any pecuniary benefit from a person known to be subject to such regulation, inspection, investigation, or custody, or against whom such litigation is known to be pending or contemplated.

(2) A public official having any discretionary function to perform in connection with contracts, purchases, payments, claims, or other pecuniary transactions of the Government commits a crime if he or she solicits, accepts, or agrees to accept any pecuniary benefit from any person known to be interested in or likely to become interested in any such contract, purchase, payment, claim, or transaction.

(3) A public official having judicial or administrative authority or employed by or in a court or other tribunal having such authority, or participating in the enforcement of its decisions, commits a crime if he or she solicits, accepts, or agrees to accept any pecuniary benefit from a person known to be interested in or likely to become interested in any matter before such public official or a tribunal with which he or she is associated.

(4) A public official who is a member of the Congress of the Federated States of Micronesia, or who is employed by the Congress or by any committee or agency thereof, commits a crime if he or she solicits, accepts, or agrees to accept any pecuniary benefit from any person known to be interested in a bill, transaction, or proceeding, pending or contemplated, before the Congress or any committee or agency thereof.

(5) This section shall not apply to:

(a) fees prescribed by law to be received by a public official or any other benefit for which the recipient gives legitimate consideration or to which he or she is otherwise legally entitled;

(b) gifts or other benefits conferred on account of custom, tradition, kinship, or other personal, professional, or business relationship independent of the official status of the receiver; or

(c) trivial benefits incidental to personal, professional, or business contacts and involving no substantial risk of undermining official impartiality.

(6) A person commits a crime if he or she knowingly confers, or offers, or agrees to confer, any benefit prohibited in this section.

(7) A person convicted under this section shall be imprisoned for not more than ten years.

Source: PL 11-72 § 52.

Cross-reference: The statutory provisions on the Legislative and the FSM Congress are found in title 3 of this code. The statutory provisions on the Judiciary and the FSM Supreme Court are found in title 4 of this code.

§ 520. Compensating public officials for assisting private interests in relation to matters before him.

(1) A public official commits a crime if he or she solicits, accepts, or agrees to accept compensation for advice or other assistance in preparing or promoting a bill, contract, claim, or other transaction or proposal as to which he or she knows that he or she has or is likely to have an official discretion to exercise.

(2) A person commits a crime if he or she pays or offers or agrees to pay compensation to a public official with knowledge that acceptance by the public official is unlawful.

- (3) A person convicted under this section shall be imprisoned for not more than ten years.

Source: PL 11-72 § 53.

§ 521. Selling political endorsement; special influence.

(1) A person commits a crime if he or she solicits, receives, agrees to receive, or agrees that any other person shall receive any pecuniary benefit as consideration for approval or disapproval of an appointment or advancement in public service, or for approval or disapproval of any person or transaction for any benefit conferred by an official or agency of the Government. "Approval" includes recommendation, failure to disapprove, or any other manifestation of favor or acquiescence. "Disapproval" includes failure to approve, or any other manifestation of disfavor or nonacquiescence.

(2) A person commits a crime if he or she solicits, receives, or agrees to receive any pecuniary benefit as consideration for exerting special influence upon a public servant or procuring another to do so. "Special influence" means power to influence through kinship, friendship, or other relationship, apart from the merits of the transaction.

(3) A person commits a crime if he or she offers, confers, or agrees to confer any pecuniary benefit receipt of which is prohibited by this section.

(4) A person convicted under this section shall be imprisoned for not more than ten years, and shall be disqualified from holding any position of honor or trust in the National Government.

Source: PL 11-72 § 54.

SUBCHAPTER IV

Perjury and Related Crimes of Falsification

§ 522. Perjury.

(1) A person commits the crime of perjury if, in any official proceeding, he or she makes a false statement under oath or equivalent affirmation, or swears or affirms the truth of a statement previously made, when the statement is material and he or she does not believe it to be true.

(2) Falsification is material, regardless of the admissibility of the statement under rules of evidence, if it could have affected the course or outcome of the proceeding. It is no defense that the declarant mistakenly believed the falsification immaterial.

- (3) A person convicted of perjury shall be punished by not more than five years imprisonment.

Source: PL 11-72 § 56.

§ 523. False swearing in official matters.

(1) A person commits the crime of false swearing if:

(a) he or she makes a false statement under oath or equivalent affirmation, or swears or affirms the truth of such a statement previously made, when he or she does not believe the statement to be true, and:

(i) the falsification occurs in an official proceeding;

(ii) the falsification is intended to mislead a public servant in performing his or her official function; or

(b) he or she makes a false statement under oath or equivalent affirmation, or swears or affirms the truth of such a statement previously made, when he or she does not believe the statement to be true and the statement is one which is required by statute or regulation of the Federated States of Micronesia to be sworn or affirmed before a notary or other person authorized to administer oaths.

(2) A person convicted of false swearing shall be imprisoned for not more than five years.

Source: PL 11-72 § 57.

§ 524. Unsworn falsification to authorities.

(1) A person commits the crime of falsification if, with purpose to mislead a public servant in performing his or her official function, he or she:

(a) makes any written false statement which he or she does not believe to be true;

(b) purposely creates a false impression in a written application for any pecuniary or other benefit, by omitting information necessary to prevent statements therein from being misleading;

(c) submits or invites reliance on any writing which he or she knows to be forged, altered, or otherwise lacking in authenticity; or

(d) submits or invites reliance on any sample, specimen, map, boundary mark, or other object which he or she knows to be false.

(2) A person commits the crime of falsification if he or she makes a written false statement which he or she does not believe to be true, on or pursuant to a form bearing notice, authorized by statute or regulation of the Federated States of Micronesia, to the effect that false statements made therein are punishable.

(3) A person convicted under this section shall be imprisoned for not more than five years.

Source: PL 11-72 § 58.

Case annotations: To be criminally liable under 11 F.S.M.C. 524(1)(c) it is enough that the accused invite reliance on any writing which he knows to be lacking in authenticity. The statute does not require that he himself make the writing that is lacking in authenticity. FSM v. Sorim, 17 FSM R. 515, 522 (Chk. 2011).

When the offense alleged in the U.S. indictment is false use of a passport, and when, in the FSM, a person commits the crime of tampering with public records under 11 F.S.M.C. 529 if he makes, presents, or uses any record, document, or thing knowing it to be false, and with the purpose that it be taken as a genuine part of information or records that are received or kept by a public servant or required to be kept by anyone for the government's information, and under 11 F.S.M.C. 524, a person commits the crime of falsification if, with purpose to mislead a public servant in performing his or her official function, he or she submits or invites reliance on any writing which he or she knows to be forged, altered, or otherwise lacking in authenticity, these two FSM statutes proscribe the conduct charged, and the requirement of dual criminality is satisfied. *In re Extradition of Benny Law Boon Leng*, 13 FSM R. 370, 373-74 (Yap 2005).

§ 525. Limitations on prosecutions of perjury and related offenses.

The following limitations apply to prosecutions under sections 521, 522 and 523 of this chapter:

(1) It is not a defense that the oath or affirmation was administered or taken in an irregular manner or that the declarant was not competent to make the statement. A document purporting to be made upon oath or affirmation at any time when the defendant presents it as being so verified shall be deemed to have been duly sworn or affirmed.

(2) No person shall be guilty of a crime if he or she retracted the falsification in the course of the proceeding in which it was made before it became manifest that the falsification was or would be exposed and before the falsification substantially affected the proceeding.

(3) Where the defendant made inconsistent statements under oath or equivalent affirmation, both having been made within the period of the statute of limitations, the prosecution may proceed by setting forth the inconsistent statements in a single count alleging in the alternative that one or the other was false and not believed by the defendant. In such case, it shall not be necessary for the prosecution to prove which statement was false but only that one or the other was false and not believed by the defendant to be true.

(4) No person shall be convicted of a crime where proof of falsity rests solely upon contradiction by testimony of a single person other than the defendant.

Source: PL 11-72 § 59.

§ 526. Tampering with witnesses and informants.

(1) A person commits a crime if, believing that an official proceeding or investigation is pending or about to be instituted, he or she:

- (a) attempts to induce or otherwise cause a witness or informant to:
 - (i) testify or inform falsely;
 - (ii) withhold any testimony, information, document, or thing;
 - (iii) elude legal process summoning him to testify or supply evidence;
 - (iv) absent himself from any proceeding or investigation to which he or she has been legally summoned; or

(b) being a witness or informant, solicits, accepts, or agrees to accept any benefit in consideration of his or her doing any of the things specified in subsection (1)(a) of this section.

(2) A person convicted under this section shall be imprisoned for not more than five years.

Source: PL 11-72 § 60.

Cross-reference: The statutory provisions on the Judiciary and the FSM Supreme Court are found in title 4 of this code.

§ 527. Retaliation against witness or informant.

(1) A person commits a crime if he or she harms another by any unlawful act in retaliation for anything lawfully done in that other person's capacity of witness or informant.

(2) A person convicted under this section shall be imprisoned for not more than five years.

Source: PL 11-72 § 61.

§ 528. Tampering with or fabricating physical evidence.

(1) A person commits a crime if, believing that an official proceeding or investigation is pending or about to be instituted, he or she:

(a) alters, destroys, conceals, or removes any record, document, or thing with the purpose to impair its verity or availability in such proceeding or investigation; or

(b) makes, presents, or uses any record, document, or thing knowing it to be false and with the purpose to mislead a public servant who is or may be engaged in such proceeding or investigation.

(2) A person convicted under this section shall be imprisoned for not more than five years.

Source: PL 11-72 § 62.

§ 529. Tampering with public records or information.

(1) A person commits a crime if he or she:

(a) knowingly makes a false entry in, or false alteration of, any record, document, or thing received or kept by a public servant, or belonging to the Government of the Federated States of Micronesia for information or record, or required by statute or regulation of the Federated States of Micronesia to be kept by anyone for information of the Government;

(b) makes, presents, or uses any record, document, or thing knowing it to be false, and with the purpose that it be taken as a genuine part of information or records referred to in paragraph (a) of this subsection; or

(c) purposely and unlawfully destroys, conceals, removes, or otherwise impairs the verity or availability of any such record, document, or thing.

(2) A person convicted under this section shall be punished:

(a) by imprisonment for not more than five years if the defendant's purpose was to defraud or injure anyone;

(b) otherwise, by imprisonment for not more than one year.

Source: PL 11-72 § 63.

Cross-reference: The statutory provisions on the President and the Executive are found in title 2 of this code. The statutory provisions on the Congress of the Federated States of Micronesia are found in title 3 of this code. The statutory provisions on the FSM Supreme Court and the Judiciary are found in title 4 of this code.

Case annotations: When the information alleges that the accused presented checks to merchants knowing that those checks were false documents, those factual allegations, supported by affidavit, establish probable cause that the accused violated 11 F.S.M.C. 529(1)(b). *FSM v. Sorim*, 17 FSM R. 515, 522 (Chk. 2011).

A conspiracy count is sufficient if it alleges an agreement, and identifies the object towards which the agreement is directed and an overt act. But it is not necessary that the information state the object of the agreement with the detail required of an information charging the substantive offense, and it is not necessary in a conspiracy charge to allege with precision all the elements essential to the offense which is the object of a conspiracy; allegations clearly identifying the offense the defendants conspired to commit are sufficient. *FSM v. Sorim*, 17 FSM R. 515, 523 (Chk. 2011).

When the offense alleged in the U.S. indictment is false use of a passport, and when, in the FSM, a person commits the crime of tampering with public records under 11 F.S.M.C. 529 if he makes, presents, or uses any record, document, or thing knowing it to be false, and with the purpose that it be taken as a genuine part of information or records that are received or kept by a public servant or required to be kept by anyone for the government's information, and under 11 F.S.M.C. 524, a person commits the crime of falsification if, with purpose to mislead a public servant in performing his or her official function, he or she submits or invites reliance on any writing which he or she knows to be forged, altered, or otherwise lacking in authenticity, these two FSM statutes proscribe the conduct charged, and the requirement of dual criminality is satisfied. *In re Extradition of Benny Law Boon Leng*, 13 FSM R. 370, 373-74 (Yap 2005).

§ 530. Impersonating a public servant.

(1) A person commits a crime if he or she falsely pretends to be a public servant with the purpose to induce another to submit to such pretended official authority or otherwise to act in reliance upon that pretense to his or her prejudice.

(2) A person convicted under this section shall be imprisoned for not more than one year.

Source: PL 11-72 § 64.

