

## CHAPTER 17

### Mutual Assistance in Criminal Matters

#### SUBCHAPTER I

##### General Provisions

#### SECTIONS

- § 1701. Short title.
- § 1702. Purpose.
- § 1703. Jurisdiction and application.
- § 1704. Definitions.

#### SUBCHAPTER II

##### Mutual Assistance

#### SECTIONS

- § 1705. Authority to make and act on mutual legal assistance requests.
- § 1706. Saving provision for other requests or assistance in criminal matters.
- § 1707. Mutual legal assistance requests by the FSM.
- § 1708. Contents of requests for assistance.
- § 1709. Foreign requests for an evidence-gathering order or a search warrant.
- § 1710. Foreign requests for consensual transfer for detained persons.
- § 1711. Detention of persons transferred to FSM.
- § 1712. Safe conduct guarantee.
- § 1713. Foreign requests for FSM restraining orders.
- § 1714. Requests for enforcement of foreign confiscation or restraining orders.
- § 1715. Foreign requests for the location of the proceeds of crime.
- § 1716. Sharing confiscated property with foreign states.

## SUBCHAPTER III

### Miscellaneous

#### SECTIONS

- § 1717. **Privilege for foreign documents.**
- § 1718. **Restriction on use of evidence and materials obtained by mutual assistance.**
- § 1719. **Confiscated proceeds of drug crime to be deposited in the General Fund of FSM or in a Fund for Drug Abuse Prevention and Control.**

## SUBCHAPTER I

### General Provisions

#### **§ 1701 . Short title.**

This Act shall be known and may be cited as the "Mutual Assistance in Criminal Matters Act of 2000".

**Source:** PL 11-71 § 3.

#### **§ 1702 . Purpose.**

The purpose of this Act is to enable the Federated States of Micronesia to cooperate with foreign states in criminal investigations and proceedings.

**Source:** PL 11-71 § 4.

#### **§ 1703 . Jurisdiction and application.**

The provisions of this Act shall extend and apply throughout all of the territory of the Federated States of Micronesia, including the land and waters and the airspace above such land and waters with respect to which the Federated States of Micronesia has legislative jurisdiction. This Act shall apply in relation to mutual assistance in criminal matters between the Federated States of Micronesia and any foreign state, subject to any condition, variation or modification in any existing or future agreement with that state, whether in relation to a particular case or more generally.

**Source:** PL 11-71 § 5.

**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/>.

## **§ 1704 . Definitions.**

Unless the subject or context otherwise requires, in this Act:

- (1) “Appeal” includes proceedings by way of discharging or setting aside a judgment, and an application for a new trial or for a stay of execution.
- (2) “Data” means representations, in any form, of information or concepts.
- (3) “Document” means any record of information and any material on which data is recorded or marked and which is capable of being read or understood by a person, computer system or other device, and includes, but is not limited to:
  - (a) anything on which there is writing;
  - (b) anything on which there are marks, figures, symbols, or perforations having meaning for persons qualified to interpret them;
  - (c) anything from which sounds, images or writings can be produced, with or without the aid of anything else; or
  - (d) a map, plan, drawing, photograph or similar thing.
- (4) “Foreign confiscation order” means an order, made by a court in a foreign state, for the purposes of the confiscation or forfeiture of property in connection with, or recovery of the proceeds of, a serious offense.
- (5) “Foreign restraining order” means an order made in respect of a serious offense by a court in a foreign state for the purpose of restraining a particular person or all persons from dealing with property.
- (6) “Foreign state” means:
  - (a) any country other than the Federated States of Micronesia; and
  - (b) every constituent part of such country, including a territory, dependency or protectorate, or

political subdivision which administers its own laws relating to international cooperation.

(7) “Interest”, in relation to property, means a:

(a) legal or equitable estate or interest in the property; or

(b) right, power or privilege in connection with the property, whether present or future and whether vested or contingent.

(8) “Person” means any natural or legal person.

(9) “Place” includes any land (whether vacant, enclosed or built upon, or not) and any premises.

(10) “Premises” includes the whole or any part of a structure, building, aircraft, or vessel.

(11) “Proceedings” means any proceeding conducted by or under the supervision of a judge, magistrate or judicial officer, however described, in relation to any alleged or proven offense, or property derived from such offense, and includes an inquiry, investigation, or preliminary or final determination of facts.

(12) “Proceeds of crime” means fruits of a crime, or any property derived or realized directly or indirectly from a serious offense and includes, on a proportional basis, property into which any property derived or realized directly from the offense was later successively converted, transformed or intermingled, as well as income, capital or other economic gains derived or realized from such property at any time since the offense.

(13) “Property” means real or personal property of every description, whether situated in the Federated States of Micronesia or elsewhere and whether tangible or intangible, and includes an interest in any such real or personal property.

(14) “Secretary” means the Secretary of the Department of Justice of the Federated States of Micronesia or the chief law enforcement officer of the Federated States of Micronesia, whatever the title of such position is or in the future may become.

(15) “Serious offense” means a violation of:

(a) any law of the Federated States of Micronesia or any of its States or political subdivisions, which is a criminal offense punishable by imprisonment for a term of more than one year; or

(b) a law of a foreign state, in relation to acts or omissions, which, had they occurred in the Federated States of Micronesia or any of its States or political subdivisions, would have constituted a criminal offense punishable by imprisonment for a term of more than one year.

(16) “Supreme Court” means the Supreme Court of the Federated States of Micronesia, and all its divisions, wherever or whenever constituted.

(17) A reference in this Act to the law of the Federated States of Micronesia, any State of the Federated States of Micronesia, or any foreign state includes a reference to a written or unwritten law of, or in force in, any part of the Federated States of Micronesia (including its States and political subdivisions), any part of that State of the Federated States of Micronesia, or any part of that foreign state, as the case may be.

**Source:** PL 11-71 § 6; PL 11-83 § 1.

## SUBCHAPTER II

### Mutual Assistance

#### **§ 1705 . Authority to make and act on mutual legal assistance requests.**

(1) The Secretary may make requests on behalf of the Federated States of Micronesia to the appropriate authority of a foreign state for mutual legal assistance in any investigation commenced or proceeding instituted in the Federated States of Micronesia, relating to any serious offense. When the request is to a foreign country, the request shall be made through the Secretary who shall give notice to the Secretary of the Department of Foreign Affairs of the Federated States of Micronesia, of the name of the foreign country to which the request is being made, the nature of the request, and the nature of the criminal matter.

(2) The Secretary may, in respect of any request from a foreign state for mutual assistance in any investigation commenced or proceeding instituted in that state relating to a serious offense:

(a) grant the request, in whole or in part, on such terms and conditions as he or she deems fit;

(b) refuse the request, in whole or in part, on the grounds that to grant the request would be likely to prejudice the sovereignty, security or other essential public interest of the Federated States of Micronesia; or

(c) after consulting with the competent authority of the foreign state, postpone the request, in whole or in part, on the grounds that granting the request immediately would be likely to prejudice the conduct of an investigation or proceeding in the Federated States of Micronesia.

(3) Requests on behalf of the Federated States of Micronesia to the appropriate authorities of foreign states for assistance of the kind referred to in section 1707 of this chapter shall be made only by or with the authority of the Secretary.

(4) Notwithstanding any other provisions of this act, nothing in this act shall be construed or interpreted to affect or take away such powers of a State of the Federated States of Micronesia to deal with a foreign state regarding its own criminal investigations and other mutual assistance in criminal matters to the extent such dealings do not conflict with any constitutional powers of the Federated States of Micronesia on the same subjects or matters. A State of the Federated States of Micronesia may request through the Secretary any assistance in criminal matters that it may need from a foreign state, as authorized in this act.

**Source:** PL 11-71 § 8.

**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/>.

The statutory provisions on Foreign Relations are found in of title 10 of this code.

**§ 1706 . Saving provision for other requests or assistance in criminal matters.**

Nothing in this act shall be taken to limit:

- (1) the power of the Secretary, apart from this act, to make requests to foreign states or act on requests from foreign states for assistance in investigations or proceedings in criminal matters;
- (2) the power of any other person or court, apart from this act, to make requests to foreign states or act on requests from foreign states for forms of international assistance other than those specified in section 1707 of this title; or
- (3) the nature or extent of assistance in investigations or proceedings in criminal matters which the Federated States of Micronesia may lawfully give to or receive from foreign states.

**Source:** PL 11-71 § 9.

**Cross-reference:** The statutory provisions on Foreign Relations are found in of title 10 of this code.

**§ 1707 . Mutual legal assistance requests by the FSM.**

The requests which the Secretary is authorized to make under section 1705 of this title are that the foreign state:

- (1) have evidence taken, or documents or other articles produced in evidence in the foreign state;
- (2) obtain and execute search warrants or other lawful instruments authorizing a search for things believed to be located in that foreign state, which may be relevant to investigations or proceedings in the Federated States of Micronesia, and if found, seize them;
- (3) locate or restrain any property believed to be the proceeds of crime located in the foreign state;
- (4) confiscate any property believed to be located in the foreign state, which is the subject of a confiscation order made pursuant to chapter 9 of title 11 of this code;
- (5) transmit to the Federated States of Micronesia any such confiscated property or any proceeds realized therefrom, or any such evidence, documents, articles or things;
- (6) transfer in custody to the Federated States of Micronesia a person detained in the foreign state who consents to assist the Federated States of Micronesia in the relevant investigation or proceedings;
- (7) provide any other form of assistance in any investigation commenced or proceeding instituted in the Federated States of Micronesia that involves or is likely to involve the exercise of a coercive power over a person or

property believed to be in the foreign state; or

- (8) permit the presence of nominated persons during the execution of any request made under this act.

**Source:** PL 11-71 § 10.

**Cross-reference:** The statutory provisions on chapter 9 of title 11 of this code are on Money Laundering and Proceeds of Crime.

### **§ 1708 . Contents of requests for assistance.**

(1) A request for mutual assistance shall:

- (a) give the name of the authority conducting the investigation or proceeding to which the request relates;
- (b) give a description of the nature of the criminal matter and a statement setting out a summary of the relevant facts and laws together with a copy of the laws being referenced;
- (c) give a description of the purpose of the request and of the nature of the assistance being sought; in the case of a request to restrain or forfeit assets believed on reasonable grounds to be located in the requested state, give details of the offense in question, particulars of any investigation or proceeding commenced in respect of the offense, and be accompanied by a copy of any relevant restraining or forfeiture order;
- (d) give details of any procedure that the requesting state wishes to be followed by the requested state in giving effect to the request, particularly in the case of a request to take evidence;
- (e) include a statement setting out any wishes of the requesting state concerning any confidentiality relating to the request and the reasons for those wishes;
- (f) give details of the period within which the requesting state wishes the request to be complied with;
- (h) where applicable, give details of the property to be traced, restrained, seized or confiscated, and of the grounds for believing that the property is believed to be in the requested state; and
- (i) give any other information that may assist in giving effect to the request.

(2) A request for mutual assistance from a foreign state may be granted, if necessary after consultation, notwithstanding that the request, as originally made, does not comply with subsection (1) of this section.

**Source:** PL 11-71 § 11.

### **§ 1709. Foreign requests for an evidence-gathering order or a search warrant.**

(1) Notwithstanding anything contained in any other law, where the Secretary grants a request by a foreign state to obtain evidence in the Federated States of Micronesia, an authorized person may apply to the Supreme Court

for:

- (a) a search warrant; or
- (b) an evidence-gathering order.

(2) The Supreme Court, to which an application is made under subsection (1) of this section, may issue an evidence-gathering order or a search warrant under this subsection, where it is satisfied that there is probable cause to believe that:

- (a) a serious offense has been or may have been committed against the laws of the foreign state; and
- (b) evidence relating to that offense may:
  - (i) be found in a building, receptacle or place in the Federated States of Micronesia; or
  - (ii) be able to be given by a person believed to be in the Federated States of Micronesia; and
- (c) in the case of an application for a search warrant, it would not, in all the circumstances, be more appropriate to grant an evidence-gathering order.

(3) For the purposes of subsection (2)(a) of this section, a statement contained in the foreign request to the effect that a serious offense has been or may have been committed against the laws of the foreign state is prima facie evidence of that fact.

(4) An evidence-gathering order:

- (a) shall provide for the manner in which the evidence is to be obtained in order to give proper effect to the foreign request, unless such manner is prohibited under the laws of the Federated States of Micronesia, and in particular, may require any person named therein to:
  - (i) make a record from data or make a copy of a record;
  - (ii) attend court to give evidence on oath or otherwise until excused;
  - (iii) produce to the Supreme Court or to any person designated by the Court, any thing, including any document, or copy thereof; and
- (b) may include such other terms and conditions as the Supreme Court considers desirable, including those relating to the interests of the person named therein or of third parties.

(5) A person named in an evidence-gathering order may refuse to answer a question or to produce a document or thing where the refusal is based on:

- (a) a law currently in force in the Federated States of Micronesia;
- (b) a privilege recognized by a law in force in the foreign state that made the request; or
- (c) a law currently in force in the foreign state that would render the answering of that question or the production of that document or thing by that person, in the person's own jurisdiction, an offense.

(6) Where a person refuses to answer a question or to produce a document or thing pursuant to subsection (5) (b) or (c) of this section, the Supreme Court shall report the matter to the Secretary who shall notify the foreign state and request the foreign state to provide a written statement on whether the person's refusal was well founded under the law of the foreign state.



(7) Any written statement received by the Secretary from the foreign state in response to a request under subsection (6) of this section, shall be admissible in the evidence-gathering proceedings, and for the purposes of this section be determinative of whether the person's refusal is well founded under the foreign law.

(8) A person who, without reasonable excuse, refuses to comply with a lawful order of the Supreme Court made under this section, or who having refused pursuant to subsection (5) of this section, continues to refuse, notwithstanding the admission into evidence of a statement under subsection (7) of this section, to the effect that the refusal is not well founded, commits a contempt of court and may be punished accordingly.

(9) A search warrant shall be in the usual form in which a search warrant is issued in the Federated States of Micronesia, varied to the extent necessary to suit the case.

(10) No document or thing seized and ordered to be sent to a foreign state shall be sent until the Secretary is satisfied that the foreign state has agreed to comply with any terms or conditions imposed in respect of the sending abroad of the document or thing.

(11) The Supreme Court is hereby authorized to adopt, recognize and enforce foreign court orders certified or under seal, which orders shall be presumed to be valid in the absence of any evidence to the contrary.

**Source:** PL 11-71 § 12; PL 11-83 § 2.

**Cross-reference:** The statutory provisions on the Judiciary and the FSM Supreme Court are found in title 4 of this code. The statutory provisions the Executive and the President are found in title 2 (Executive) of this code.

### **§ 1710. Foreign requests for consensual transfer of detained persons.**

(1) Where the Secretary approves a request of a foreign state to have a person, who is detained in custody in the Federated States of Micronesia by virtue of a sentence or order of a court, transferred to a foreign state to give evidence or assist in an investigation or proceeding in that state relating to a serious offense, an authorized person may apply to the Supreme Court for a transfer order.

(2) The Supreme Court to which an application is made under subsection (1) of this section, may make a transfer order under this subsection where it is satisfied, having considered any document filed or information given in support of the application, that the detained person consents to the transfer.

(3) A transfer order made under subsection (2) of this section:

(a) shall set out the name of the detained person and the person's current place of confinement;

(b) shall order the person who has custody of the detained person to deliver the detained person into the custody of a person who is designated in the order or who is a member of the class of persons so designated;

(c) shall order the person who is to take custody of the detained person, to take the detained person to the foreign state and, on return of the detained person to the Federated States of Micronesia, to return that person to a place of confinement in the Federated States of Micronesia specified in the order, or to such other place of confinement as the Secretary may subsequently notify the foreign state;

(d) shall state the reasons for the transfer; and

(e) shall fix the period of time at or before the expiration of which the detained person must be

returned, unless varied for the purposes of the request by the Secretary.

(4) The time spent in custody by a person pursuant to a transfer order shall count toward any sentence required to be served by that person, so long as the person remains in such custody and is of good behavior.

**Source:** PL 11-71 § 13.

**§ 1711 . Detention of persons transferred to FSM.**

(1) The Secretary may by written notice authorize:

(a) the temporary detention in the Federated States of Micronesia of a person in detention in a foreign state who is to be transferred from that state to the Federated States of Micronesia pursuant to a request under section 1707(6) of this chapter, for such period as may be specified in the notice; and

(b) the return of the person to the custody of the foreign state when his or her presence is no longer required.

(2) A person in respect of whom a notice is issued under subsection (1) of this section, shall, so long as the notice is in force:

(a) be permitted to enter and remain in the Federated States of Micronesia for the purposes of the request, and be required to leave the Federated States of Micronesia when no longer required for those purposes, notwithstanding any Federated States of Micronesia law to the contrary; and

(b) while in custody in the Federated States of Micronesia for the purposes of the request, be deemed to be in lawful custody.

(3) The Secretary may at any time vary a notice issued under subsection (1) of this section, and where the foreign state requests the release of the person from custody, either immediately or on a specified date, the Secretary shall direct that the person be released from custody accordingly; PROVIDED, however, that the Secretary may require the immediate departure of that person from the Federated States of Micronesia if such departure is determined to be in the best interest of the nation.

(4) Any person who escapes from lawful custody while in the Federated States of Micronesia pursuant to a request under section 1707(6) of this chapter, may be arrested without warrant by any authorized person and returned to the custody authorized under subsection (1)(a) of this section.

(5) Where a foreign country has requested that a person be detained in the Federated States of Micronesia in the course of transit between the foreign country and a third country and the Secretary grants the request, the provisions of this section shall apply with necessary changes in points of detail in relation to that person.

(6) No court in the Federated States of Micronesia has jurisdiction to entertain any application by or on behalf of any person in the Federated States of Micronesia pursuant to a request under section 1707(6) of this chapter, relating to release from custody or continued presence in the Federated States of Micronesia after his or her presence is no longer required for the purpose of the request.

**Source:** PL 11-71 § 14.

**Cross-reference:** The statutory provisions on the Judiciary and the FSM Supreme Court are found in title 4 (Judicial) of this code. The statutory provisions the Executive and the President are found in title 2 (Executive) of this code.

**§ 1712 . Safe conduct guarantee.**

(1) Where a person, whether or not a detained person, is in the Federated States of Micronesia in response to a request by the Secretary to a foreign state under this act for such person to give evidence in a proceeding or to assist in an investigation, prosecution or related proceeding, the person shall not, while in the Federated States of Micronesia, be:

(a) detained, prosecuted or punished; or

(b) subjected to civil process; in respect of any act or omission that occurred before the person's departure from the foreign state pursuant to the request; PROVIDED, however, that this section shall not preclude the person, by voluntary agreement and consent, from entering into a stipulated settlement or resolution of any criminal charges pending in the Federated States of Micronesia, or of any civil or criminal matter.

(2) Subsection (1) of this section, ceases to apply to the person when the person leaves the Federated States of Micronesia, or has had the opportunity to leave, but remains in the Federated States of Micronesia for ten days after the Secretary has notified the person that he or she is no longer required for the purposes of the request.

**Source:** PL 11-71 § 15.

**§ 1713 . Foreign requests for FSM restraining orders.**

(1) The Secretary may apply to the Supreme Court for a restraining order under subsection (2) of this section where:

(a) a foreign state requests the Secretary to obtain the issuance of a restraining order against property, some or all of which is believed to be located in the Federated States of Micronesia;

(b) criminal proceedings have begun in the foreign state in respect of a serious offense; and

(c) there is probable cause to believe that the property relating to the offense or belonging to the defendant or the defendant's co-conspirators is located in the Federated States of Micronesia.

(2) Where the Secretary makes application to the Supreme Court under subsection (1) of this section, the Court may make a restraining order in respect of the property, and this act or the relevant provisions of chapter 9 of title 11 of this code shall apply as requested by the Secretary in relation to the application and to any restraining order issued as a result, as if the serious offense that is the subject of the order had been committed in the Federated States of Micronesia.

**Source:** PL 11-71 § 16; PL 11-83 § 3.

**Cross-reference:** The statutory provisions on chapter 9 of title 11 of this code are on Money Laundering and Proceeds of Crime. The statutory provisions on the Judiciary and the FSM Supreme Court are found in title 4 (Judicial) of this code. The statutory provisions the Executive and the President are found in title 2 (Executive) of this code.

**§ 1714 . Requests for enforcement of foreign confiscation or restraining orders.**

(1) Where a foreign state requests the Secretary to make arrangements for the enforcement of a foreign restraining order or a foreign confiscation order, the Secretary may apply to the Supreme Court of the Federated States of Micronesia for entry and enforcement of the order under this act or under chapter 9 of title 11 of this code.

(2) The Supreme Court shall, upon application by the Secretary, enter and enforce a foreign restraining order under this act or under chapter 9 of title 11 of this code, if the Court is satisfied that at the time of entry and registration, the order is in force in the foreign state.

(3) The Supreme Court shall, upon application by the Secretary, enter and enforce a foreign confiscation order, which is legally capable of enforcement in the Federated States of Micronesia and its States, if the Court is satisfied:

(a) at the time of entry and enforcement, that the order is in force in the foreign state and is not subject to appeal; and

(b) where the person subject of the order did not appear in the confiscation proceedings in the foreign state, that:

(i) the person was given fair notice of the proceedings; or

(ii) the person had absconded or had died before such notice could be given, and if the person died, the decedent's estate was given fair notice of the proceedings.

(4) For the purposes of subsections (2) and (3) of this section, a statement contained in the foreign request to the effect that:

(a) the foreign restraining order is in force in the foreign state;

(b) the foreign confiscation order is in force in the foreign state and is not subject to appeal; or

(c) the person, who is the subject of the foreign confiscation order, was given notice of the proceedings in sufficient time to enable him or her to defend them, or that the person had absconded or died before such notice could be given and if the person died, the decedent's estate was given fair notice of the proceedings is prima facie evidence of those facts, without proof of the signature or official character of the person appearing to have signed the foreign request.

(5) Where a foreign restraining order or foreign confiscation order is entered for enforcement in accordance with this section, a copy of any amendments made to the order in the foreign state (whether before or after entry and enforcement), may be entered and enforced in the same way as the order, but shall not have effect for the purposes of chapter 9 of title 11 of this code, until they are so entered and enforced.

(6) The Supreme Court shall, upon application by the Secretary, rescind entry of:

(a) a foreign restraining order, if it appears to the Court that the order has ceased to have effect; or

(b) a foreign confiscation order, if it appears to the Court that the order has been satisfied or has ceased to have effect.

(7) Subject to subsection (9) of this section, where the foreign restraining order or foreign confiscation order comprises a facsimile copy of a duly authenticated foreign order, or amendment made to such an order, the facsimile shall be regarded, for the purposes of this act, as the same as the duly authenticated foreign order.

(8) Entry and registration effected by means of a facsimile ceases to have effect at the end of the period of 21 days, commencing on the date of entry and registration, unless a duly authenticated original of the order has been entered and registered by that time.

(9) Where a foreign restraining order or a foreign confiscation order has been entered pursuant to this section, the relevant provisions of chapter 9 of title 11 of this code shall be deemed to apply in relation to the order as if the serious offense that is the subject of the order had been committed in the Federated States of Micronesia, and the order had been made pursuant to that act.

**Source:** PL 11-71 § 17; PL 11-83 § 4.

**Cross-reference:** The statutory provisions on chapter 9 of title 11 of this code are on Money Laundering and Proceeds of Crime. The statutory provisions on the Judiciary and the FSM Supreme Court are found in title 4 (Judicial) of this code. The statutory provisions the Executive and the President are found in title 2 (Executive) of this code.

#### **§ 1715 . Foreign requests for the location of the proceeds of crime.**

Where a foreign state requests the Secretary to assist in locating property believed to be the proceeds of a serious crime committed in that state, the Secretary may authorize the making of any application under sections 971, 976 or 978 of chapter 9 of title 11 of this code, for the purpose of acquiring the information sought by the foreign state.

**Source:** PL 11-71 § 18.

**Cross-reference:** The statutory provisions on chapter 9 of title 11 of this code are on Money Laundering and Proceeds of Crime.

#### **§ 1716 . Sharing confiscated property with foreign states.**

(1) Subject to approval by Congress or if Congress is not in session, subject to approval by the Judiciary and Governmental Operations Committee of Congress, the Secretary may enter into an arrangement with the competent authorities of a foreign state, in respect of money laundering and proceeds of crime, for the reciprocal sharing with that state of such part of any property realized:

(a) in the foreign state, as a result of action taken by the Secretary pursuant to section 1707(4) of this chapter; or

(b) in the Federated States of Micronesia, as a result of action taken in the Federated States of Micronesia pursuant to section 1714(1) of this chapter.

(2) Except as otherwise provided by law, any proceeds of crime that have been received by the Federated States of Micronesia pursuant to this chapter shall be deposited in the General Fund of the Federated States of

Micronesia.

**Source:** PL 11-71 § 19; PL 11-83 § 5.

### SUBCHAPTER III

#### Miscellaneous

##### **§ 1717. Privilege for foreign documents.**

(1) Subject to subsection (2) of this section, a document sent to the Secretary by a foreign state, in accordance with a Federated States of Micronesia request pursuant to this act, is privileged and no person shall disclose to anyone the document, or its purport, or the contents of the document or any part thereof, before the document, in compliance with the conditions on which it was so sent, is made public or disclosed in the course of and for the purpose of any proceeding.

(2) No person in possession of a document referred to in subsection (1) of this section, or a copy thereof, or who has knowledge of any information contained in the document, shall be required, in connection with any legal proceeding, to produce the document or copy, or to give evidence relating to any information that is contained therein.

(3) Except to the extent required under this act to execute a request by a foreign state for mutual assistance in criminal matters, no person shall disclose:

- (a) the fact that the request has been received; or
- (b) the contents of the request.

(4) Violation of subsection (3) of this section is a felony offense, punishable by imprisonment for a maximum of five years or a maximum fine of \$50,000, or both; PROVIDED, however, in the case of a corporation, company, commercial enterprise, commercial entity or other legal person, the maximum fine shall be increased to \$250,000.

**Source:** PL 11-71 § 21.

##### **§ 1718. Restriction on use of evidence and materials obtained by mutual assistance.**

No information, document, article or other thing obtained from a foreign state, pursuant to a request made under this act, shall be used in any investigation or proceeding other than the investigation or proceeding disclosed in the request, unless the Secretary consents after consulting with the foreign state.

**Source:** PL 11-71 § 22.

**§ 1719 . Confiscated proceeds of drug crime to be deposited in the General Fund of FSM or in a Fund for Drug Abuse Prevention and Control.**

To the extent available under any sharing of confiscated property arrangement referred to in section 1716 of this chapter, or otherwise, any proceeds of drug related crime which have been:

- (1) confiscated in a foreign state pursuant to a request by the Federated States of Micronesia under section 1707(4) of this chapter; or
- (2) confiscated in the Federated States of Micronesia pursuant to a request by a foreign state under section 1714(1) of this chapter; shall be deposited in the General Fund of the Federated States of Micronesia until such time as a Fund for Drug Abuse Prevention and Control is established by law.

**Source:** PL 11-71 § 23; PL 11-83 § 6.

**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/>.