

TITLE 61

CRIMINAL LAW

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CHAPTER 1 GENERAL PROVISIONS

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§1-101. Short title. — Chapters 1 through 10 are known and may be cited as the “Pohnpei Crimes Act of 1994.”

Source: S.L. No. 3L-89-95 §1-1, 4/6/95

§1-102. Definitions. — The definitions in this section shall apply throughout Chapters 1 through 10, unless otherwise specified or a different meaning is plainly required.

(1) *Building or occupied structure.* The term “building or occupied structure” means any structure, vehicle, vessel or place adapted for overnight accommodation of persons, or for carrying on business therein, whether or not a person is actually present. Property is that of another, for the purpose of

Chapters 1 through 10, if anyone other than the defendant has a possessory or property interest therein. If a building or structure is divided into separately occupied units, any unit not occupied by the defendant is an occupied structure of another.

(2) *Criminal negligence.* A person acts with criminal negligence, or is criminally negligent, with respect to attendant circumstances when his conduct creates a substantial and unjustifiable risk and causes the criminal result; or if his failure to be aware of the risk constitutes a gross deviation from the standard of care that a reasonable person would exercise in the situation.

(3) *Defendant.* The term “defendant” includes a person who is an accessory or accomplice of the defendant.

(4) *Intent.* A person acts intentionally, or with intent, with respect to his conduct or to a result thereof when it is his conscious purpose to engage in the conduct or cause the result.

(5) *Jurisdiction; state; Pohnpei.* “This jurisdiction,” “the state” or “Pohnpei” means the state of Pohnpei, including its land and water, and the airspace above said land and water, with respect to which Pohnpei has legislative jurisdiction.

(6) *Knowledge.* A person acts knowingly, or with knowledge, with respect to his conduct or to attendant circumstances when he is aware of the nature of his conduct or that those circumstances exist. A person acts knowingly, or with knowledge, with respect to a result of his conduct when he is aware that his conduct is practically certain to cause the result.

(7) *Person; he; accused; defendant.* The term “person,” “he,” “accused,” and “defendant” includes any natural person and, where relevant, a corporation or an unincorporated association.

(8) *Public servant or public official.* A “public servant” or “public official” means any officer or employee of, or any person acting on behalf of the state of Pohnpei, including legislators and judges, and any person acting as an advisor, consultant or otherwise, in performing a governmental function; but the term does not include witnesses.

(9) *Recklessness.* “Recklessness” means to act with willful disregard to the attendant circumstances, or if unaware of the circumstances, to act in such a manner that constitutes a gross deviation from the standard of care that a reasonable person would exercise in the situation.

Source: S.L. No. 3L-89-95 §1-3, 4/6/95

§1-103. Classification of crimes. — A felony is a crime or offense that may be punishable by imprisonment for a period of more than one year. Every other crime is a misdemeanor.

Source: S.L. No. 3L-89-95 §1-5, 4/6/95

§1-104. Defenses; burden of proof. —

(1) A defense is a fact or set of facts which negates penal liability.

(2) When a defense declared by statute to be an “affirmative defense” is raised at a trial, the defendant has the burden of establishing such defense by a preponderance of the evidence.

(3) When a defense, other than an affirmative defense defined by statute, is raised at a trial, the people have the burden of disproving such defense beyond a reasonable doubt.

(4) A defense is an affirmative defense if it is so designated by Chapters 1 through 10 or another statute.

Source: S.L. No. 3L-89-95 §1-7, 4/6/95

§1-105. Mental disease or defect. — In any prosecution for an offense, it is an affirmative defense that when the defendant engaged in the proscribed conduct, he lacked criminal responsibility by reason of mental disease or defect. Such lack of criminal responsibility means that at the time of such conduct, as a result of mental disease or defect, he lacked substantial capacity to know or appreciate either:

(1) The nature and consequences of such conduct; or

(2) That such conduct was wrong.

Source: S.L. No. 3L-89-95 §1-9, 4/6/95

§1-106. Intoxication. — An act committed while in a state of voluntary intoxication is no less criminal by reason thereof, and intoxication does not, in itself, constitute a physical or mental disease, disorder or defect. When recklessness establishes an element of the offense and the defendant, due to voluntary intoxication, was unaware of the risk that he would have been aware of had he been sober, such unawareness is immaterial. Intoxication means a disturbance of mental or physical capabilities resulting from the introduction of any substance into the body.

Source: S.L. No. 3L-89-95 §1-11, 4/6/95

§1-107. Presumptions as to responsibility of children. — Children under the age of ten are conclusively presumed to be incapable of committing any crime. Children between the ages of ten and fourteen are presumed to be incapable of committing any crime in which case the presumption is rebuttable. The provisions of this section, however, shall not prevent proceedings against and the disciplining of any person under 18 years of age as a delinquent child.

Source: S.L. No. 3L-89-95 §1-13, 4/6/95

§1-108. Limitation of prosecution. —

(1) A prosecution for murder may be commenced at any time.

(2) Except as otherwise provided in this section, prosecutions for other offenses are subject to the following time limitations:

(a) A prosecution for a crime that is punishable by imprisonment for more than ten years must be commenced within six years after it is committed.

(b) A prosecution for any other crime must be commenced within three years after it is committed.

(3) If the time limitation set forth in Subsection (2) of this section has expired, a prosecution may nevertheless be commenced for:

(a) Any crime, an element of which is either fraud or a breach of fiduciary obligation, within one year after discovery of the crime by an aggrieved party or by a person who has a legal duty to represent an aggrieved party and who is himself not a party to the crime, but in no case shall this provision extend the period of limitation otherwise applicable by more than three years; or

(b) Any offense based on misconduct in office by a public officer or employee at any time when the defendant is in public office or employment or within two years thereafter, but in no case shall this provision extend the period of limitation otherwise applicable by more than three years.

(4) The time limitation does not run:

(a) During any time when the accused is continuously absent from this jurisdiction or has no reasonably determinable place of abode or work within this jurisdiction; or

(b) During any time when a prosecution against the accused for the same conduct is pending in this jurisdiction.

(5) A prosecution is commenced either when information or a complaint is filed or when an arrest warrant or other process is executed without unreasonable delay.

Source: S.L. No. 3L-89-95 §1-15, 4/6/95

§1-109. Discretion as to prosecution of crimes for which there is a satisfactory customary settlement. — Prior to any subsequent prosecution of an offender under the crimes of Pohnpei, the pertinent officers of the Attorney General's office shall first ascertain whether there has been a customary settlement with respect to the offensive action and whether the victim or victims of the

offensive action are satisfied therewith. If such findings are made, the Attorney General may, in his discretion, close the case and abstain from any further action relative thereto.

Source: S.L. No. 3L-89-95 §1-17, 4/6/95

§1-110. “Principal” defined. — Every person is punishable as a principal who commits an offense against Pohnpei or aids, abets, counsels, commands, induces or procures its commission or who causes an act to be done, which, if directly performed by him would be an offense against Pohnpei. No distinction is made between principals in the first and second degrees, and no distinction is made between a principal and what has heretofore been called an accessory before the fact.

Source: S.L. No. 3L-89-95 §1-19, 4/6/95

§1-111. Accessories. — Every person who, knowing that an offense against Pohnpei has been committed, receives, relieves, comforts or assists the offender in order to hinder or prevent his apprehension, trial or punishment, is an accessory after the fact. An accessory after the fact shall be imprisoned not more than half the maximum term of imprisonment or fined not more than half the maximum fine prescribed for punishment of the principal, or both such fine and imprisonment.

Source: S.L. No. 3L-89-95 §1-21, 4/6/95

§1-112. Other laws not affected. — Any other law in effect in Pohnpei prescribing criminal penalties, whether established by district order, district statute, state statute, Pohnpei statute or Trust Territory statute, not specifically repealed or superseded by Chapters 1 through 10 shall remain in full force and effect. To this end, Chapters 1 through 10 shall not be interpreted as intending to be a complete compilation of all criminal offenses against Pohnpei.

Source: S.L. No. 3L-89-95 §10-5, 4/6/95

§1-113. Prior offenses. — Chapters 1 through 10 shall not apply to offenses committed before their effective date [*the Pohnpei Crimes Act of 1994, April 6, 1995*]. An offense is committed before the effective date of Chapters 1 through 10 if any of the elements of the offense occurred before that date. Prosecutions for offenses committed before the effective date are governed by the prior law, which is continued in effect for that purpose as if Chapters 1 through 10 were not in force.

Source: S.L. No. 3L-89-95 §10-7, 4/6/95

Note: S.L. No. 3L-89-95 §10-3 superseding and §10-9 severability provisions have been omitted.

Extended Legislative history: S.L. No. 1L-3-85, 3/9/85, established a Pohnpei Crimes Act and prescribed penalties therefor; S.L. No. 1L-3-85 §10-1(1), 3/9/85 repealed Chapter 4 of the Ponape District Code, 3/71; S.L. No. 1L-3-85 §10-1(2), 3/9/85 repealed D.L. No. 3L-129-75, 6/3/75 and D.L. No. 3L-16-72, 5/25/72 in their entirety; S.L. No. 1L-3-85 §10-1(3), 3/9/85 repealed D.L. No. 3L-79-74, 6/28/74 in its entirety; S.L. No. 1L-3-85 §10-1(4), 3/9/85 repealed D.L. No. 2L-233-71, 11/27/71 in its entirety; S.L. No. 1L-3-85 §10-1(5), 3/9/85 repealed PDC §3-12(11), 3/71 in its entirety; S.L. No. 1L-3-85 §10-1(6), 3/9/85 repealed D.L. No. 4L-193-79, 8/9/79 in its entirety; S.L. No. 1L-3-85 §10-1(7), 3/9/85 repealed S.L. No. 3L-21-84, 7/24/84 in its entirety; S.L. No. 1L-3-85 §10-3, 3/9/85 as amended by S.L. No. 1L-15-85 §1, 4/16/85 superseded 11 TTC (1980), except as provided by S.L. No. 1L-3-85 §10-7, 3/9/85; S.L. No. 2L-76-88 §1, 12/11/88 added §§6-13, 6-15, 6-17, and 6-19 to S.L. No. 1L-3-85; S.L. No. 2L-76-88 §2, 12/11/88 added §§7-27, 7-29, 7-31, 7-33, 7-35, 7-37, and 7-39 to S.L. No. 1L-3-85; S.L. No. 2L-76-88 §3, 12/11/88 added §§8-15 and 8-17 to S.L. No. 1L-3-85; S.L. No. 2L-76-88 §4, 12/11/88 amended S.L. No. 1L-3-85 §7-3, 3/9/85; S.L. No. 2L-76-88 §5, 12/11/88 repealed S.L. No. 1L-3-85 §7-23, 3/9/85 and inserted new §7-23; S.L. No. 2L-76-88 §6, 12/11/88 repealed S.L. No. 1L-3-85 §8-5, 3/9/85 in its entirety; S.L. No. 2L-207-91, 7/2/91 added new §1-2 to S.L. No. 1L-3-85; S.L. No. 2L-207-91 §2, 7/2/91 added new §1-4 to S.L. No. 1L-3-85; S.L. No. 2L-207-91 §3, 7/2/91 repealed S.L. No. 1L-3-85 §1-11, 3/9/85 and inserted new §1-11; S.L. No. 2L-207-91 §4, 7/2/91 added new §1-12 to S.L. No. 1L-3-85; S.L. No. 2L-207-91 §5, 7/2/91 added new §2-2 to S.L. No. 1L-3-85; S.L. No. 2L-207-91 §6, 7/2/91 added new §2-9 to S.L. No. 1L-3-85; S.L. No. 2L-207-91 §7, 7/2/91 added new §§6-21 and 6-23 to S.L. No. 1L-3-85; S.L. No. 2L-207-91 §8, 7/2/91 added new §§7-41, 7-43, 7-45, 7-47, 7-49, 7-51, 7-53, 7-55, 7-57, 7-59, 7-61, and 7-63 to S.L. No. 1L-3-85; S.L. No. 3L-9-92 §1, 7/10/92 amended S.L. No. 1L-3-85 §7-45 as established by S.L. No. 2L-207-91 §8; S.L. No. 3L-89-95, 4/6/95 established a new crimes act; S.L. No. 3L-89-95 §10-1, 4/6/95 repealed all laws and Code provisions cited in S.L. No. 1L-3-85 §10-1, 3/9/85, except as provided by S.L. No. 1L-3-85 §10-7, 3/9/85.

CHAPTER 2 PRINCIPLES OF PENAL LIABILITY

Section

2-101 Criminal liability for conduct of another

§2-101. Criminal liability for conduct of another. —

(1) A person is criminally liable for the conduct of another if:

- (a) He intentionally aids, abets, advises, solicits, counsels or conspires with or otherwise procures the other to commit a crime; or
- (b) While acting with the state of mind that is sufficient for the commission of the crime, he causes an innocent or irresponsible person to engage in such conduct; or
- (c) Having a legal duty to prevent the commission of a crime, he fails to make proper effort to do so.

(2) A person liable under Subsection (1) of this section is also liable for any other crime committed in the pursuance of the intended crime if reasonably foreseeable by him as a probable consequence of committing or attempting to commit the crime intended.

(3) A person liable under this section may be charged with and convicted of the offense although the person who directly committed it has not been prosecuted or convicted, or has been convicted of a different offense or degree of offense, or has been acquitted.

Source: S.L. No. 3L-89-95 §2-9, 4/6/95

CHAPTER 3 [RESERVED – PRINCIPLES OF JUSTIFICATION]

CRIMINAL LAW

CHAPTER 4 INCHOATE CRIMES

Section

4-101 Criminal attempt

4-103 Criminal solicitation

4-102 Criminal conspiracy

4-104 Security to keep the peace

§4-101. Criminal attempt. — Every person who unlawfully attempts to commit any of the crimes as prescribed by the laws of Pohnpei which attempt falls short of actual commission of the crime itself, shall be guilty of attempt to commit said crime, and where no separate provision is made by law for punishment upon conviction of such attempt, a person so convicted shall be punished by imprisonment for a term not exceeding half of the maximum term of imprisonment for the offense attempted, or by a fine in an amount not exceeding half of the fine which may lawfully be imposed upon conviction for commission of the offense attempted, or by both such fine and imprisonment.

Source: S.L. No. 3L-89-95 §2-1, 4/6/95

§4-102. Criminal conspiracy. — If two or more persons conspire either to commit any crime against Pohnpei, and one or more of such parties do any act to effect the object of the conspiracy, each of the parties to such conspiracy shall be guilty of conspiracy, and upon conviction thereof shall be imprisoned for a period of not more than three years, or fined not more than \$1,000, or both such fine and imprisonment. If, however, the offense, the commission of which is the object of conspiracy, carries a penalty less than that herein prescribed, the punishment for such conspiracy shall not exceed the maximum penalty provided for such offense.

Source: S.L. No. 3L-89-95 §2-5, 4/6/95

§4-103. Criminal solicitation. —

(1) Every person who, with intent to promote or facilitate the commission of a crime, commands, encourages or requests another person to engage in conduct that causes the result specified by the definition of the crime, or engages in conduct which would be sufficient to establish complicity in the specified conduct or result shall be guilty of solicitation.

(2) It is immaterial under Subsection (1) of this section that the defendant fails to communicate with the person he solicits if his conduct was designed to cause such communication.

(3) It is an affirmative defense to the prosecution for solicitation that the defendant, under circumstances showing a complete and voluntary renunciation of his criminal intent, made a reasonable effort to prevent the conduct or result solicited.

(4) A person convicted of solicitation shall be punished:

(a) By imprisonment for not more than ten years if the maximum sentence provided for any offense which was the object of the solicitation is life imprisonment; or

(b) By imprisonment for not more than one-half the maximum sentence that is provided for the most serious offense which was the object of the solicitation if the maximum sentence is less than life imprisonment.

Source: S.L. No. 3L-89-95 §2-11, 4/6/95

§4-104. Security to keep the peace. —

(1) A complaint may be made to any court that a person has threatened to commit an offense against the person or property of another. When such complaint is made, the court shall examine, under oath, the complainant and any witnesses he may produce, reduce the complaint to writing, and cause it to be signed and sworn to by the complainant. If the court is satisfied that there is danger that such offense will be committed, the court shall issue a warrant to any policeman setting out the

substance of the complaint and commending the officer to apprehend the person complained of and bring him before the court at a certain time.

(2) When the person complained of is brought before the court, the testimony produced on both sides shall be heard if the charge is denied. If it appears that there is no just reason to fear the commission of the offense, the defendant shall be discharged; and if the judge is of the opinion that the prosecution was commenced maliciously without proper cause, he may give judgment against the complainant for the costs of the prosecution. If, however, the court finds there is just reason to fear the commission of such offense, the person complained of may be required to enter into an undertaking in a sum fixed by the court, not exceeding \$500, to keep the peace toward Pohnpei and particularly toward the complainant. The defendant shall deposit the sum fixed in cash with the Clerk of the Pohnpei Supreme Court who may grant him permission to give bond in the same amount with one or more sufficient sureties. The undertaking to keep the peace shall be valid and binding for six months, and may upon the renewal of the complaint be extended for a longer period.

(3) If the court finds, after hearing, that the defendant has violated his undertaking to keep the peace, the court may direct a forfeiture of the whole or such part of the deposit or bond as it appears that justice requires, and may enforce such forfeiture in the same manner as a forfeiture of bail in a criminal case.

(4) If the defendant fulfills his undertaking to keep the peace, he may claim his deposit from the Clerk upon presentation of receipt.

Source: S.L. No. 3L-89-95 §6-21, 4/6/95

CHAPTER 5 OFFENSES AGAINST THE PERSON

Section

Part A [Reserved – General provisions]

5-101 – 5-110 [Reserved]

Part B Criminal homicide

5-111 Murder

5-113 Negligent homicide

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Part C Kidnapping; criminal coercion

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5-161 Extortion

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Part H Reckless endangerment

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PART A [RESERVED – GENERAL PROVISIONS]

§§5-101 – 5-110. [RESERVED]

PART B CRIMINAL HOMICIDE

§5-111. Murder. — Except as provided in §5-112(2), every person who unlawfully causes the death of another human being under the following circumstances shall be guilty of murder, and upon conviction thereof shall be imprisoned for a minimum period of ten years and a maximum period of life. A person is guilty of murder when he has acted:

- (1) Intentionally or knowingly; or
- (2) Recklessly under circumstances manifesting extreme indifference to the value of human life.

Source: S.L. No. 3L-89-95 §6-15, 4/6/95

§5-112. Manslaughter. — Every person who unlawfully causes the death of another human being under the following circumstances shall be guilty of manslaughter, and upon conviction thereof shall be imprisoned for a period of not more than ten years. A person is guilty of manslaughter when:

(1) He has acted recklessly; or

(2) A homicide that would otherwise be murder is committed under influence of extreme mental or emotional disturbance for which there is reasonable explanation or excuse. The reasonableness of such explanation or excuse shall be determined from the viewpoint of a person in the defendant's situation under the circumstances as he believes them to be.

Source: S.L. No. 3L-89-95 §6-11, 4/6/95

§5-113. Negligent homicide. —

(1) Every person who negligently causes the death of another human being shall be guilty of negligent homicide, and upon conviction thereof shall be imprisoned for a period of not more than five years, or fined not more than \$5,000, or both such fine and imprisonment.

(2) A person acts negligently when he should be aware of a substantial and unjustifiable risk that serious bodily harm or death will result from his conduct. The risk must be of such a nature and degree that the defendant's failure to perceive it, considering the nature and the purpose of his conduct and the circumstances known to him, involves gross deviation from the standard of care that a reasonable person would observe in the defendant's situation.

Source: S.L. No. 3L-89-95 §6-17, 4/6/95

§§5-114 – 5-120. [RESERVED]

PART C KIDNAPPING; CRIMINAL COERCION

§5-121. Kidnapping. —

(1) Every person who unlawfully removes another from his place of residence or business or a substantial distance from the vicinity where he is found, or unlawfully confines another for a substantial period in a place of isolation, shall be guilty of kidnapping if such action is taken with any of the following purposes:

(a) To hold for ransom or reward, or as a shield or hostage; or

(b) To facilitate commission of any felony or flight thereafter; or

(c) To inflict bodily injury on or to terrorize the victim or another; or

(d) To interfere with the performance of any government or political function.

(2) A removal or confinement is unlawful under this section if it is accomplished by force, threat or deception or in the case of a person who is under the age of 14 or incompetent without the consent of a parent, guardian or other person responsible for general supervision of his welfare.

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

(a) By imprisonment for a maximum term of eight years unless the person committing the offense voluntarily releases the victim alive and in a safe place prior to trial; or

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

Source: S.L. No. 3L-89-95 §6-9, 4/6/95

§§5-122 – 5-125. [RESERVED]

§5-126. Criminal coercion. —

(1) Every person who intentionally compels or induces another person to engage in conduct from which he has a legal right to abstain or to abstain from conduct in which he has a legal right to engage

shall be guilty of criminal coercion if such action instills in him a fear that, if the demand is not complied with, the defendant or a third person will:

- (a) Commit any felony offense; or
- (b) Accuse anyone of a felony offense; or
- (c) Expose any secret or publicize any asserted fact, whether true or false, tending to subject any person to hatred, contempt or ridicule, or to impair his credit or business repute; or
- (d) Reveal any information sought to be concealed by the person; or
- (e) Testify or provide information or withhold testimony or information with respect to any person's legal claim or defense; or
- (f) Take or withhold action as a public servant or cause a public servant to take or withhold such action.

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

- (a) If a dangerous weapon is used to instill fear, by imprisonment for a period of not more than ten years or by fine of not more than \$8,000, or both such fine and imprisonment; or
- (b) Otherwise, by imprisonment for not more than five years or by fine of not more than \$5,000, or both such fine and imprisonment.

(3) It is a defense to a prosecution under Paragraphs (b), (c), (d), and (f) of Subsection (1) of this section that the defendant believed the threatened accusation or exposure to be true or the proposed action of a public servant justified, and that his sole intention was to compel or induce the victim to take reasonable action to prevent or remedy the wrong which was the subject of the threatened accusation, exposure or action of a public servant.

Source: S.L. No. 3L-89-95 §7-9, 4/6/95

§§5-127 – 5-130. [RESERVED]

PART D CRIMINAL ASSAULTS AND RELATED OFFENSES

§5-131. Mayhem. — Every person, with intent to maim or disfigure, who cuts, bites or slits the nose, ear or lip, or cuts off or disables the tongue, or puts out or destroys an eye, or cuts off or disables a limb or any member of another person, shall be guilty of mayhem and upon conviction thereof shall be imprisoned for a period of not more than ten years or fined not more than \$10,000, or both such fine and imprisonment.

Source: S.L. No. 3L-89-95 §6-13, 4/6/95

§5-132. Assault or assault and battery with a dangerous weapon. — Every person who unlawfully commits any assault or assault and battery upon another by means of a dangerous weapon shall be guilty of assault or assault and battery with a dangerous weapon and upon conviction thereof shall be:

- (1) Imprisoned for a term of not more than ten years or fined not more than \$10,000, or both such fine and imprisonment, if bodily injury occurs; or
- (2) Imprisoned for a term of not more than five years or fined not more than \$5,000, or both such fine and imprisonment, if no bodily injury occurs.

Source: S.L. No. 3L-89-95 §6-5, 4/6/95

§5-133. Felonious assault and battery. — Every person who unlawfully and intentionally strikes, beats, wounds or otherwise does serious bodily harm to another shall be guilty of felonious assault and battery, and upon conviction thereof shall be imprisoned for a period of not more than ten years or fined not more than \$10,000, or both such fine and imprisonment

Source: S.L. No. 3L-89-95 §6-3, 4/6/95

§5-134. Assault and battery. — Every person who recklessly or unlawfully and intentionally strikes, beats, wounds or otherwise does bodily harm to another shall be guilty of assault and battery, and upon conviction thereof shall be imprisoned for a period of not more than two years or fined not more than \$500, or both such fine and imprisonment.

Source: S.L. No. 3L-89-95 §6-2, 4/6/95

§5-135. Assault. — Every person who unlawfully and intentionally offers or attempts, with force or violence, to strike, beat, wound or to do bodily harm to another, shall be guilty of assault, and upon conviction thereof shall be imprisoned for a period of not more than six months or fined not more than \$100, or both such fine and imprisonment.

Source: S.L. No. 3L-89-95 §6-1, 4/6/95

§§5-136 – 5-140. [RESERVED]

PART E SEXUAL OFFENSES

§5-141. Sexual assault. —

(1) Every person who intentionally subjects another person to sexual contact or penetration, or forces another person to make a sexual contact or penetration on himself or another, or on a beast, without the other person's consent, or under conditions in which the defendant knows or should know that the other person is mentally or physically incapable of resisting or understanding the nature of his conduct shall be guilty of sexual assault and upon conviction thereof shall be punished as follows:

(a) If serious bodily or psychological injury to the victim results or the defendant is aided or abetted by one or more accomplices, or a dangerous weapon was used by the defendant or an accomplice in such a manner as to cause the victim to submit to the sexual assault, by imprisonment for a period of not more than ten years or fine of not more than \$10,000, or both such fine and imprisonment.

(b) Otherwise, by imprisonment for a period of not more than five years or fine of not more than \$5,000, or both such fine and imprisonment.

(2) A defendant may not be convicted of a sexual assault if the defendant and complainant were cohabitating in an ongoing voluntary sexual relationship at the time of the alleged offense, or if the complainant is the defendant's spouse, unless:

(a) The defendant was an accomplice or accessory to the sexual assault by a third person; or

(b) At the time of the sexual assault the married couple were either living apart and one of them had filed an action for separate maintenance or divorce or were no longer husband and wife under custom and tradition.

(3) As used in this section:

(a) "Serious bodily injury" means bodily injury which creates a high probability of death or which causes serious permanent disfigurement or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ, or other bodily injury of like severity.

(b) "Serious psychological injury" means psychological or emotional damage that requires protracted psychological treatment or is characterized by extreme behavioral changes or severe physical symptoms.

(4) "Sexual penetration" means sexual intercourse, cunnilingus, fellatio or anal intercourse, or the causing of penetration to any extent and with any object of the genital or anal openings of another whether or not there is any emission.

Source: S.L. No. 3L-89-95 §8-15, 4/6/95

§5-142. Sexual abuse. —

(1) Every person who intentionally has sexual contact or sexual penetration with another person who is 15 years old or less or causes such a person to have sexual contact or sexual penetration with him shall be guilty of sexual abuse and upon conviction thereof shall be imprisoned for a period of not more than five years or fined not more than \$5,000, or both such fine and imprisonment.

(2) It is an affirmative defense that the defendant reasonably believed the child to be older than 15.

(3) “Sexual contact” means any touching of the sexual or other intimate parts of a person not married to the defendant, done with the intent of gratifying the sexual desire of either party. “Sexual penetration” means sexual intercourse, cunnilingus, fellatio or anal intercourse, or the causing of penetration to any extent and with any object of the genital or anal openings of another person not married to the defendant whether or not there is any emission.

Source: S.L. No. 3L-89-95 §8-13, 4/6/95

§5-143. Indecent exposure. —

(1) Every person who exposes all or substantially all of his or her genitals for entertainment purposes in any public place shall be guilty of indecent exposure and upon conviction thereof shall be imprisoned for a period of not more than six months or fined not more than \$100, or both such fine and imprisonment.

(2) For purposes of this section:

(a) The term “genitals” shall refer to the external sexual organs of any person, but shall not be construed to include the female breasts.

(b) “Public place” shall mean a place to which the general public has a right to resort.

Source: S.L. No. 3L-89-95 §8-5, 4/6/95

§§5-144 – 5-150. [RESERVED]**PART F CRIMINAL LIBEL**

§5-151. Criminal libel. — Every person who unlawfully, willfully, knowingly or with reckless disregard for the truth, and maliciously, speaks, writes, prints or in any other manner publishes material which falsely exposes another person to hatred, contempt or ridicule, shall be guilty of criminal libel, and upon conviction thereof shall be imprisoned for a period of not more than six months or fined not more than \$100, or both such fine and imprisonment.

Source: S.L. No. 3L-89-95 §5-1, 4/6/95

§§5-152 – 5-160. [RESERVED]**PART G EXTORTION**

§5-161. Extortion. — Every person who obtains the property of another by threatening to inflict bodily injury on any one or commit any other criminal offense shall be guilty of theft by extortion, and upon conviction thereof shall be imprisoned for a period of not more than ten years or fined not more than \$5,000, or both such fine and imprisonment.

Source: S.L. No. 3L-89-95 §7-13, 4/6/95

§§5-162 – 5-170. [RESERVED]

PART H RECKLESS ENDANGERMENT

§5-171. Reckless burning. — Every person who unlawfully and intentionally starts a fire or causes an explosion under the following circumstances shall be guilty of reckless burning, and upon conviction thereof shall be imprisoned for a period of not more than five years or fined not more than \$5,000, or both such fine and imprisonment. A person is guilty of reckless burning when he starts a fire or causes an explosion, whether on his own property or that of another and thereby recklessly:

- (1) Places another person in danger of death or bodily injury; or
- (2) Places a building or occupied structure of another in danger of damage or destruction.

Source: S.L. No. 3L-89-95 §7-3, 4/6/95

CHAPTER 6 OFFENSES AGAINST PROPERTY RIGHTS

Section

Part A [Reserved – General provisions]

6-101 – 6-110 [Reserved]

Part B Burglary and other offenses of intrusion

6-111 Burglary

6-115 Trespass

6-112 – 6-114 [Reserved]

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Part C Criminal damage to property

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6-122 Fraudulent destruction, removal or concealment of instruments

6-124 – 6-130 [Reserved]

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6-132 – 6-140 [Reserved]

Part E Theft and related offenses

6-141 Grand larceny

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6-155 Unauthorized use of a vehicle or vessel

6-146 Theft of property lost, mislaid or delivered by mistake

6-156 Theft of utilities services; damaging or altering a meter

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6-149 Mutiny on a vessel

6-160 Receiving stolen goods

Part F Forgery and related offenses

6-161 Forgery

6-162 Possession of forged writing or forgery device

PART A [RESERVED – GENERAL PROVISIONS]

§§6-101 – 6-110. [RESERVED]

PART B BURGLARY AND OTHER OFFENSES OF INTRUSION

§6-111. Burglary. —

(1) Every person who enters the building or occupied structure of another with the intent to commit any felony, assault or larceny therein, unless the premises are at the time open to the public or the person is licensed or privileged to enter, shall be guilty of burglary, and upon conviction thereof shall be:

(a) Imprisoned for a period of not more than ten years or fined not more than \$10,000, or both such fine and imprisonment, if the defendant or an accomplice inflicts bodily injury on anyone or is armed with a dangerous weapon at any time during the entry; or

(b) Otherwise, imprisoned for a period of not more than five years or fined not more than \$5,000, or both such fine and imprisonment.

(2) A person may be convicted both for burglary and the offense that it was his purpose to commit after the burglarious entry or for an attempt to commit that offense.

Source: S.L. No. 3L-89-95 §7-5, 4/6/95

§§6-112 – 6-114. [RESERVED]

§6-115. Trespass. — Every person who unlawfully violates or interferes with the peaceful use and possession of the dwelling house, premises or property of another, whether by force or by stealth, shall be guilty of trespass, and upon conviction thereof shall be imprisoned for a period of not more than one year or fined not more than \$500, or both such fine and imprisonment.

Source: S.L. No. 3L-89-95 §7-47, 4/6/95

§§6-116 – 6-120. [RESERVED]

PART C CRIMINAL DAMAGE TO PROPERTY

§6-121. Arson. — Every person who unlawfully and intentionally starts a fire or causes an explosion under the following circumstances shall be guilty of arson, and upon conviction thereof shall be imprisoned for a period of not more than eight years, or fined not more than \$8,000, or both such fine and imprisonment. A person is guilty of arson when:

(1) He destroys a building or occupied structure of another;

(2) He destroys or damages any property, whether his own or another's, to collect insurance from such loss. It shall be an affirmative defense to prosecution under this subsection that the behavior did not recklessly endanger any building or occupied structure of another, or place any person in danger of death or bodily injury.

Source: S.L. No. 3L-89-95 §7-1, 4/6/95

§6-122. Fraudulent destruction, removal or concealment of instruments. — Every person who, with purpose to deceive or injure anyone, destroys, removes or conceals any will, deed, mortgage, security instrument or other writing shall be guilty of fraudulent destruction, removal or concealment of instruments and upon conviction thereof shall be imprisoned for a period of not more than five years or fined not more than \$5,000, or both such fine and imprisonment.

Source: S.L. No. 3L-89-95 §7-17, 4/6/95

§6-123. Malicious mischief. — Every person who unlawfully destroys, damages, or otherwise injures property belonging to another, including the property of the Pohnpei Government or a local government of Pohnpei, or who unlawfully and with willful intent to deface or destroy the appearance of the property or with reckless disregard for the consequences of his action, throws, discards or scatters upon any public road, street or ground or other land owned, reserved, controlled or maintained, for any purpose other than a public dumping ground, by the Government of Pohnpei, local government or subdivision thereof, any waste material, garbage or other debris, in any form or substance shall be guilty of malicious mischief, and upon conviction thereof shall be imprisoned for a period of not more than six months or fined not more than \$100, or both such fine and imprisonment.

Source: S.L. No. 3L-89-95 §7-23, 4/6/95

§§6-124 – 6-130. [RESERVED]

PART D ROBBERY

§6-131. Robbery. —

(1) Every person who takes away anything of value from the person of another, or from the immediate control of another, by use or threatened use of immediate force or violence shall be guilty of robbery and upon conviction thereof shall be imprisoned for a period of not more than five years, or fined not more than \$5,000, or both such fine and imprisonment; or

(2) If the defendant or an accomplice uses a dangerous weapon to obtain the property or inflicts serious bodily injury, the defendant so convicted under this section shall be imprisoned for a period of not more than ten years or fined not more than \$10,000, or both such fine and imprisonment.

Source: S.L. No. 3L-89-95 §6-19, 4/6/95

§§6-132 – 6-140. [RESERVED]

PART E THEFT AND RELATED OFFENSES

§6-141. Grand larceny. — Every person who unlawfully steals, takes, and carries away the personal property of another, of the value of \$5,000 or more, without the owner's knowledge or consent, and with the intent to permanently deprive the owner of its use, shall be guilty of grand larceny, and upon conviction thereof shall be imprisoned for a period of not more than ten years or fined not more than \$5,000, or both such fine and imprisonment.

Source: S.L. No. 3L-89-95 §7-19, 4/6/95

§6-142. Embezzlement. — Every person who after having lawfully obtained possession of the personal property of another, takes and carries away said property without the owner's knowledge and consent, and with the intent to permanently deprive the owner of its use, shall be guilty of embezzlement, and upon conviction thereof shall be imprisoned for a period of not more than ten years or fined not more than \$5,000, or both such fine and imprisonment.

Source: S.L. No. 3L-89-95 §7-11, 4/6/95

§6-143. Theft by failure to make required disposition of funds received. — Every person who purposely obtains property upon agreement or subject to a known legal obligation to make specified payment or other disposition, whether from such property or its proceeds or from his own property in

equivalent amount, shall be guilty of theft by failure to make required disposition of funds received if he deals with the property obtained as his own and fails to make the required payment or disposition and upon conviction thereof shall be imprisoned for a period of not more than ten years or fined not more than \$5,000, or both such fine and imprisonment. The foregoing applies notwithstanding that it may be impossible to identify particular property as belonging to the victim at the time of the defendant's failure to make the required payment or disposition. An officer or employee of the Pohnpei Government or of a financial institution is presumed:

- (1) To know any legal obligation relevant to his criminal liability under this section; and
- (2) To have dealt with the property as his own if he fails to pay or account upon lawful demand, or if an audit reveals a shortage or falsification of accounts.

Source: S.L. No. 3L-89-95 §7-45, 4/6/95

§6-144. Theft of services. —

(1) Every person who intentionally obtains services to his own benefit or to the benefit of another not entitled thereto which he knows are only available for compensation by deception, threat, false token or other means to avoid payment for the services, or by knowingly diverting services over which he has control for the disposition thereof to others, shall be guilty of theft of services, and upon conviction thereof shall be imprisoned for a period of not more than ten years, or fined not more than \$5,000, or both such fine and imprisonment.

(2) For purposes of this section, "services" includes labor, professional services, transportation, accommodation in hotels, restaurants or elsewhere, admission to exhibits, receipt of cable television or computer networks, and use of vehicles and other movable property.

Source: S.L. No. 3L-89-95 §7-43, 4/6/95

§6-145. Misuse of credit or debit cards. —

(1) Every person who misuses a credit or debit card to obtain property or services from one or more persons shall be guilty of the misuse of credit or debit cards and upon conviction thereof shall be punished:

(a) If the value of the property or services is \$5,000 or more, by imprisonment for a period of not more than ten years, by a fine of not more than \$10,000, or both such fine and imprisonment; or

(b) If the value of the property or services is less than \$5,000, by imprisonment for a period of not more than three years, by a fine of not more than \$3,000, or both such fine and imprisonment.

(2) A person misuses a credit or debit card if he uses a credit or debit card for the purpose of obtaining property or services with knowledge that:

(a) The card is stolen or forged; or

(b) The card has been revoked or cancelled; or

(c) For any other reason his use of the card is unauthorized by the issuer.

(3) It is an affirmative defense to prosecution under Paragraph (c) of Subsection (2) of this section if the actor proves by a preponderance of the evidence that he had the purpose and ability to meet all obligations to the issuer arising out of his use of the card.

Source: S.L. No. 3L-89-95 §7-27, 4/6/95

§6-146. Theft of property lost, mislaid or delivered by mistake. — Every person who comes into control of property of another that he knows to have been lost, mislaid or delivered under a mistake as to the nature or amount of the property or the identity of the recipient shall be guilty of theft of property lost, mislaid or delivered by mistake if, with purpose to deprive the owner thereof, he fails to take reasonable measures to restore the property to a person entitled to have it, and upon conviction

thereof shall be imprisoned for a period of not more than ten years or fined not more than \$5,000, or both such fine and imprisonment.

Source: S.L. No. 3L-89-95 §7-41, 4/6/95

§6-147. Cheating. — Every person who unlawfully obtains the property, services or money of another by false pretenses, knowing the pretenses to be false, and with the intent thereby to permanently defraud the owner thereof, shall be guilty of cheating, and upon conviction thereof shall be imprisoned for a period of not more than ten years or fined not more than \$5,000, or both such fine and imprisonment.

Source: S.L. No. 3L-89-95 §7-7, 4/6/95

§6-148. [RESERVED]

§6-149. Mutiny on a vessel. — Every person who by force, threat of force, or deception, usurps or assists in usurping the command of a vessel in state waters shall be guilty of mutiny on a vessel and upon conviction thereof shall be imprisoned for a period of not more than five years or fined not more than \$5,000, or both such fine and imprisonment.

Source: S.L. No. 3L-89-95 §7-25, 4/6/95

§6-150. Petit larceny. — Every person who unlawfully steals, takes, and carries away the personal property of another, of the value of more than \$100 but less than \$5,000, without the owner's knowledge or consent, and with the intent to permanently deprive the owner of its use, shall be guilty of petit larceny, and upon conviction thereof shall be imprisoned for a period of not more than three years or fined not more than \$3,000, or both such fine and imprisonment.

Source: S.L. No. 3L-89-95 §7-31, 4/6/95

§6-151. Unlawful issuance of bank checks or drafts. —

(1) Every person who, for the procurement of any article or thing of value, with intent to defraud, or for the payment of any past-due obligation, or for any other purpose, with intent to deceive, makes, draws, utters or delivers any check, draft or order for payment of money upon a bank or other depository, knowing at the time that the maker or drawer has not or will not have sufficient funds in, or credit with, the bank or other depository for the payment of that check, draft or order in full upon its presentment, shall be guilty of unlawful issuance of bank checks or drafts and upon conviction thereof:

(a) If the value of the property thus obtained be \$1,000 or more, shall be imprisoned for a period of not more than three years or fined not more than \$3,000, or both such fine and imprisonment; and

(b) If the value of the property thus obtained be less than \$1,000, shall be imprisoned for a period of not more than one year or fined not more than \$500, or both such fine and imprisonment.

(2) The making, drawing, uttering or delivering by a maker or drawer of a check, draft or order, payment of which is refused by the drawee because of insufficient funds of the maker or drawer in the drawee's possession or control, is prima facie evidence of his intent to defraud or deceive and of his knowledge of insufficient funds in, or credit with, that bank or other depository, unless the maker or drawer pays the holder the amount due within five days after receiving notice, orally or in writing, that the check, draft or order was not paid on presentment.

(3) In this section, the word "credit" means an arrangement or an understanding expressed or implied, with the bank or other depository for the payment of that check, draft or order.

Source: S.L. No. 3L-89-95 §7-49, 4/6/95

§6-152. Larceny from a building or occupied structure. — Every person who unlawfully steals, takes and carries away the personal property of another, of value less than \$1,000, from another's building or occupied structure but without the owner's knowledge or consent, and with the intent to permanently deprive the owner of its use, shall be guilty of larceny from a building or occupied structure and upon conviction thereof shall be imprisoned for a period of not more than three years or fined not more than \$1,000, or both such fine and imprisonment.

Source: S.L. No. 3L-89-95 §7-21, 4/6/95

§§6-153 & 6-154. [RESERVED]

§6-155. Unauthorized use of a vehicle or vessel. —

(1) Every person who, without the permission of the owner thereof or proper authorization, takes any automobile, truck, motorcycle, motorboat, canoe or other vehicle or vessel belonging to another for the purpose of temporarily using or operating said vehicle or vessel, shall be guilty of unauthorized use of a vehicle or vessel and upon conviction thereof, shall be imprisoned for a period of not more than six months or fined not more than \$500, or both such fine and imprisonment.

(2) Any person convicted of a violation of Subsection (1) of this section who has previously been convicted under charges separately brought and tried two or more times of a violation of Subsection (1) of this section, and who has been imprisoned as a result of any of those convictions, may be imprisoned for a period of not more than one year or fined not more than \$1,000, or both such fine and imprisonment.

Source: S.L. No. 3L-89-95 §7-51, 4/6/95

§6-156. Theft of utilities services; injuring or altering a meter. — Every person who willfully and knowingly, with intent to injure or defraud, makes or causes to be made any connection with the electric, telephone, water or sewer lines or pipes of any agency or corporation authorized to distribute or collect such services by means of lines, wires, pipes or utilities appliance of any character whatsoever, without the written authority of such agency or corporation, or who knowingly and with like intent, injures, alters or procures to be injured or altered any utilities meter, or obstructs its working, or procures the same to be tampered with or injured, shall be guilty of theft of utilities services, injuring or altering a meter, and upon conviction thereof shall be imprisoned for a period of not more than six months or fined not more than \$100, or both such fine and imprisonment.

Source: S.L. No. 3L-89-95 §7-39, 4/6/95

§6-157. Theft. — Every person who unlawfully steals, takes, and carries away the personal property of another, of the value of \$100 or less, without the owner's knowledge or consent, and with the intent to permanently deprive the owner of its use, shall be guilty of theft, and upon conviction thereof shall be imprisoned for a period of not more than three months or fined not more than \$100, or both such fine and imprisonment.

Source: S.L. No. 3L-89-95 §7-37, 4/6/95

§6-158. Theft of sakau plant. —

(1) Every person who unlawfully steals, takes, exchanges and carries away sakau plants of any size belonging to another person, without the owners knowledge or consent, with the intent to permanently deprive the owner of its use, shall be guilty of theft of sakau plant and upon conviction thereof shall be imprisoned for a period of not less than six months and not more than one year, or fined not less than \$100 dollars and not more than \$1,000, or both such fine and imprisonment; PROVIDED that any person convicted of a violation of this section who has previously been convicted under charges separately brought and tried under this section two or more times within ten years of the previous conviction shall be imprisoned for a period not less than one year and not more

than two years, or fined not less than \$200 dollars and not more than \$2,000, or both such fine and imprisonment.

(2) Each day that a defendant unlawfully takes one or more sakau plants belonging to the same person in violation of this section constitutes a separate offense.

(3) If a defendant is convicted of theft of sakau plant in violation of this section, the court may, in lieu of or in addition to other lawful punishment set forth above, order restitution or compensation to the owner or person damaged or the forfeiture of the sakau plant or product thereof to Pohnpei as prescribed in 64 PC 1-105. In the calculation of restitution or compensation, each sakau plant so unlawfully taken shall be valued by the court at no less than \$100 per plant.

Source: S.L. No. 7L-95-11 §1, 8/1/11

§6-159. [RESERVED]

§6-160. Receiving stolen goods. —

(1) Every person who unlawfully takes into his possession stolen or embezzled property knowing or having good reason to believe said property was stolen or embezzled, shall be guilty of receiving stolen goods, and upon conviction thereof shall be imprisoned for a period of not more than two years or fined not more than \$1,000, or both such fine and imprisonment.

(2) For purposes of this section, “receiving” means acquiring possession, control or title of the property.

Source: S.L. No. 3L-89-95 §7-35, 4/6/95

PART F FORGERY AND RELATED OFFENSES

§6-161. Forgery. —

(1) Every person who forges a writing which is or purports to be a will, deed, contract, release, commercial instrument or other document evidencing, creating, transferring, altering, terminating or otherwise affecting legal relations shall be guilty of forgery, and upon conviction thereof shall be imprisoned for a period of not more than five years or fined not more than \$5,000, or both such fine and imprisonment.

(2) For purposes of this section:

(a) A person forges a writing if, with purpose to defraud or injure anyone, or with knowledge that he is facilitating a fraud or injury to be perpetrated by anyone, he:

(i) Alters any writing of another without his authority; or

(ii) Makes, completes, executes, authenticates, issues or transfers any writing so that it purports to be the act of another who did not authorize that act, or to have been executed at a time or place or in a numbered sequence other than was in fact the case, or to be a copy of an original when no such original existed; or

(iii) Utters any writing that he knows to be forged in a manner specified in Subparagraphs (i) or (ii) of this paragraph.

(b) “Writing” includes printing or any other method of recording information, money, coins, tokens, stamps, seals, credit cards, badges, trademarks, and other symbols of value, right, privilege or identification.

Source: S.L. No. 3L-89-95 §7-15, 4/6/95

§6-162. Possession of forged writing or forgery device. —

(1) Every person who knowingly possesses any forged writing or knowingly brings into Pohnpei, or buys, sells, exchanges, transfers or delivers, or attempts to do so, any forged writing; or makes or possesses with knowledge of its character any plate, die or other device, apparatus, equipment or article specifically designed or adopted for use in forged writings, shall be guilty of possession of forged writing or forgery device, and upon conviction thereof shall be imprisoned for a period of not more than five years or fined not more than \$5,000, or both such fine and imprisonment.

(2) For purposes of this section, a forged writing is a document or instrument on whose face is a fraudulent making or alteration which can prejudice another man's rights or the false making or alteration which if genuine might apparently produce or create the foundation of a legal liability.

Source: S.L. No. 3L-89-95 §7-33, 4/6/95

CHAPTER 7
OFFENSES AGAINST THE FAMILY

Section

7-101 Bigamy

7-102 Incest

§7-101. Bigamy. —

(1) Every person who, being legally married, unlawfully and willfully marries another during the tenure of the marriage contract, shall be guilty of bigamy, and upon conviction thereof shall be imprisoned for a period of not more than three years; PROVIDED, HOWEVER, that no person shall be found guilty of bigamy whose wife or husband has been absent for a period of five years, without being known by such person to be alive during that time.

(2) “Legally married” means an existing relationship of husband and wife which is recognized by custom and/or law.

Source: S.L. No. 3L-89-95 §8-1, 4/6/95

§7-102. Incest. — Every person who knowingly and unlawfully engages in sexual intercourse, contact or penetration with another, as defined in §5-142(3), of a relationship of blood or adoption of a grandparent, parent, brother or sister of the full or half blood, or children and their children of said person shall be guilty of incest, and upon conviction thereof shall be imprisoned for a period of not more than three years or fined not more than \$3,000, or both such fine and imprisonment; PROVIDED, HOWEVER, that the burden of proof of such relationship or affinity shall rest with the prosecution.

Source: S.L. No. 3L-89-95 §8-3, 4/6/95

CHAPTER 8
OFFENSES AGAINST PUBLIC HEALTH AND MORALS

Section

Part A [Reserved – General provisions]

8-101 – 8-110 [Reserved]

Part B Pandering and prostitution

8-111 Pandering

8-113 – 8-120 [Reserved]

8-112 Prostitution

Part C Offenses related to obscenity

8-121 Obscene materials

8-122 – 8-130 [Reserved]

Part D Nuisance

8-131 Nuisance

[PART A RESERVED – GENERAL PROVISIONS]

§§8-101 – 8-110. [RESERVED]

PART B PANDERING AND PROSTITUTION

§8-111. Pandering. —

(1) Every person who engages in conduct that constitutes pandering as defined by this section shall be guilty of pandering and upon conviction thereof shall be imprisoned for a period of not more than one year or fined not more than \$500, or both such fine and imprisonment.

(2) Pandering shall be defined as:

(a) Causing, inducing, persuading or encouraging another person by promises, threats, violence or by any device or scheme, to engage in the practice of prostitution; and

(b) Receiving or giving, or agreeing to receive or give, any money or thing of value for procuring, or attempting to procure, another person for the purpose of prostitution.

Source: S.L. No. 3L-89-95 §8-9, 4/6/95

§8-112. Prostitution. — Every person who engages in the practice of prostitution, or who aids another in the practice of prostitution by hiring such other person for the purpose of having illicit sexual intercourse with the hirer, shall be guilty of prostitution, and upon conviction thereof shall be imprisoned for a period of not more than six months or fined not more than \$500, or both such fine and imprisonment. Prostitution shall be defined as illicit sexual intercourse of a person for hire.

Source: S.L. No. 3L-89-95 §8-11, 4/6/95

§§8-113 – 8-120. [RESERVED]

PART C OFFENSES RELATED TO OBSCENITY

§8-121. Obscene materials. —

(1) *Offenses.* It shall be unlawful for any person, company, corporation, partnership or other entity to:

- (a) Intentionally or knowingly display or distribute any obscene material in a reckless manner about where a child is present who will be offended or alarmed by the display or distribution;
- (b) Intentionally or knowingly sell, commercially distribute, commercially exhibit or possess for sale, display, distribution, commercial distribution or commercial exhibition any obscene or harmful material to a child;
- (c) Intentionally or knowingly transport any obscene or harmful material for purposes of sale, display, distribution, commercial distribution or commercial exhibition to a child;
- (d) Intentionally or knowingly sell, distribute, display, exhibit, commercially distribute or commercially exhibit any harmful material to a child or possess such material for such purposes;
- (e) Hire, employ or otherwise use a child to do or accomplish or assist in doing or accomplishing any act prohibited by this subsection.

(2) *Defense.* It is an affirmative defense to prosecution under Subsection (1) of this section that the actor had or has scientific, educational, governmental or similar justification or that any sale, distribution, display or exhibition was to a child who was accompanied by a consenting parent, guardian or spouse who is an adult. It is not a defense that a child consents to any sale, distribution, display or exhibition or agrees to do or accomplish or assist in doing or accomplishing any act prohibited by Subsection (1) of this section.

(3) *Penalties.* Any person, firm, corporation, partnership or other entity found guilty of any offense as described in Subsection (1) of this section shall be imprisoned for a period of not more than three years or fined not more than \$1,000, or both such fine and imprisonment.

(4) *Definitions.* As used in this section:

- (a) “Obscene” means taken as a whole the dominant theme of material which:
 - (i) Appeals to a prurient interest in sex;
 - (ii) Appeals to a child’s prurient interest in sex;
 - (iii) Is patently offensive because it affronts contemporary community standards relating to the description or representation of sex; and
 - (iv) Does not have any serious literary, artistic, political or scientific merit;
- (b) “Material” means a book, magazine, newspaper or other printed or written matter; a picture, drawing, photograph, motion picture or other pictorial representation; a recording, transcription or mechanical, chemical or electrical reproduction, or other article, equipment or machine;
- (c) “Prurient interest” means a shameful or morbid interest in sex that goes substantially beyond customary limits of candor in description or representation of such matters. If it appears from the character of the material or the circumstances of its dissemination that the subject matter is designed for a specially susceptible audience, the appeal of the subject matter shall be judged with reference to such audience;
- (d) “Distribute” means to transfer possession whether with or without consideration;
- (e) “Commercially distribute” means to transfer possession for valuable consideration;
- (f) “Child” means a person younger than 15 years of age;
- (g) “Harmful material” means material whose dominant theme taken as a whole:
 - (i) Appeals to the prurient interest of a child in sex;

(ii) Is patently offensive to adult contemporary community standards with respect to what is suitable for children; and

(iii) Does not have serious literary, artistic, political or scientific merit for children; and

(h) “Reckless” means a situation wherein a person acts recklessly or is reckless with respect to circumstances surrounding his conduct or the result of his conduct when he is aware of, but consciously disregards, a substantial and unjustifiable risk that the circumstances exist or the result will occur. The risk must be of such a nature and degree that its disregard constitutes a gross deviation from the standard of care that an ordinary person would exercise under all the circumstances as viewed from the actor’s standpoint.

Source: S. L. No. 3L-89-95 §8-7, 4/6/95

§§8-122 – 8-130. [RESERVED]

PART D NUISANCE

§8-131. Nuisance. — Every person who knowingly and unlawfully maintains or allows to be maintained a condition of things which is prejudicial to the health, comfort, safety, property, sense of decency or morals of Pohnpei shall be guilty of maintaining a nuisance, and upon conviction thereof shall be imprisoned for a period of not more than six months or fined not more than \$500, or both such fine and imprisonment.

Source: S.L. No. 3L-89-95 §7-29, 4/6/95

CHAPTER 9 OFFENSES AGAINST PUBLIC ORDER

Section

Part A [Reserved – General provisions]
9-101 – 9-110 [Reserved]

Part B Disorderly conduct and related offenses
9-111 Disorderly conduct
9-112 Weapons prohibited in establishments
serving alcoholic beverages

9-113 Appearance in public under the influence of
narcotics, drugs or alcohol

PART A [RESERVED – GENERAL PROVISIONS]

§§9-101 – 9-110. [RESERVED]

PART B DISORDERLY CONDUCT AND RELATED OFFENSES

§9-111. Disorderly conduct. —

(1) A person who, with intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof:

- (a) Engages in fighting or in violent, tumultuous or threatening behavior; or
- (b) Makes unreasonable noise; or
- (c) In a public place, uses abusive or obscene language, or makes an obscene gesture; or
- (d) Without lawful authority, disturbs any lawful assembly or meeting of persons; or
- (e) Obstructs vehicular or pedestrian traffic; or
- (f) Congregates with other persons in a public place and refuses to comply with a lawful order of the police to disperse; or
- (g) Creates a hazardous or physically offensive condition by any act which serves no legitimate purpose;

(2) Shall be guilty of disorderly conduct, and upon conviction thereof shall be imprisoned for a period of not more than six months or fined not more than \$100, or both such fine and imprisonment.

Source: S.L. No. 3L-89-95 §6-7, 4/6/95

§9-112. Weapons prohibited in establishments serving alcoholic beverages. —

(1) No person in Pohnpei shall be in any bar, pub, nightclub or other establishment that sells alcoholic beverages for consumption on the premises if such person is in immediate possession of any knife with a blade longer than three inches, any ice pick, spear, club, billy, truncheon, rock, chopper stick or any other instrument capable of causing serious injury or death.

(2) The prohibition of this section shall not apply to employees of such establishments who are on duty and whose employment requires the use of knives or ice picks and who possess none of the other objects listed in Subsection (1) of this section.

(3) Every person who violates the prohibition of this section shall be guilty of possession of a prohibited weapon in an establishment serving alcoholic beverages and upon conviction thereof shall

be imprisoned for a period of not more than six months or fined not more than \$500, or both such fine and imprisonment.

Source: S.L. No. 3L-89-95 §6-23, 4/6/95

§9-113. Appearance in public under the influence of narcotics, drugs or alcohol. — A person is guilty of appearance in public under the influence of narcotics, drugs or alcohol when he appears in a public place under the influence of narcotics, drugs or alcohol to the degree that he may endanger himself or other persons or property, or annoy persons in his vicinity, and upon conviction thereof shall be imprisoned for a period of not more than six months or fined not more than \$100, or both such fine and imprisonment.

Source: S.L. No. 3L-89-95 §6-8, 4/6/95

CHAPTER 10 OFFENSES AGAINST PUBLIC ADMINISTRATION

Section

Part A [Reserved – General provisions]

10-101 – 10-110 [Reserved]

Part B Obstruction of public administration

10-111 Concealment, removal or alteration of record or process

10-112 Misconduct in public office

10-113 Impersonating a public servant

10-114 False arrest

10-115 – 10-120 [Reserved]

10-121 Compounding a crime

10-122 Duty to report wounds or death

10-123 – 10-130 [Reserved]

Part C Escape

10-131 Escape

10-132 Unlawful rescue

10-133 – 10-140 [Reserved]

Part D Bribery

10-141 Bribery

10-142 – 10-150 [Reserved]

Part E Interference with enforcement of law or judicial or legislative proceedings

10-151 Perjury

10-152 Obstructing justice

10-153 Interference with service of process

10-154 Criminal contempt

Part F Ethics

10-155 Outside employment or financial interest

10-156 Use of state property or information

PART A [RESERVED – GENERAL PROVISIONS]

§§10-101 – 10-110. [RESERVED]

PART B OBSTRUCTION OF PUBLIC ADMINISTRATION

§10-111. Concealment, removal or alteration of record or process. — Every person who willfully and unlawfully conceals, removes, takes away, mutilates, obliterates, alters or destroys, or attempts to do so, or willfully takes and carries away any record or process in or from the executive branch, any court, adjudicatory body, the Legislature or official authorized to issue or serve the same, shall be guilty of tampering with record or process, as the case may be, and upon conviction thereof, shall be

imprisoned for a period of not more than three years or fined not more than \$1,000, or both such fine and imprisonment.

Source: S.L. No. 3L-89-95 §3-1, 4/6/95

§10-112. Misconduct in public office. — Every public official who does any illegal act under the color of office, or willingly neglects to perform the duties of his office as provided by law, shall be guilty of misconduct in public office, and upon conviction thereof shall be imprisoned for a period of not more than two years or fined not more than \$1,000, or both such fine and imprisonment. For purposes of this section, “public official” includes public officials of the local governments of Pohnpei.

Source: S.L. No. 3L-89-95 §3-13, 4/6/95

§10-113. Impersonating a public servant. — Every person who willfully and unlawfully impersonates a public servant by falsely pretending to be a public servant with purpose to induce another to submit to such pretended official authority or otherwise to act in reliance upon that pretence to his prejudice, shall be guilty of impersonating a public servant and upon conviction thereof shall be imprisoned for a period of not more than two years or fined not more than \$500, or both such fine and imprisonment. For purposes of this section, “public servant” includes officers and employees of the local governments of Pohnpei.

Source: S.L. No. 3L-89-95 §3-9, 4/6/95

§10-114. False arrest. — Every person who unlawfully detains another by force and against his will, then and there not being in possession of authority to do so, shall be guilty of false arrest and upon conviction thereof shall be imprisoned for a period of not more than one year or fined not more than \$500, or both such fine and imprisonment.

Source: S.L. No. 3L-89-95 §3-7, 4/6/95

§§10-115 – 10-120. [RESERVED]

§10-121. Compounding a crime. — Every person who, having knowledge that a crime has been, is being, or is about to be committed, unlawfully, knowingly, and willfully agrees for a reward not to report the crime to the appropriate authority shall be guilty of compounding a crime, and upon conviction thereof shall be imprisoned for a period of not more than one year or fined not more than \$500, or both such fine and imprisonment. This section shall not be construed to prevent any person from offering or accepting in good faith a customary settlement in relation to his offensive action or that of any other person.

Source: S.L. No. 3L-89-95 §2-3, 4/6/95

§10-122. Duty to report wounds or death. —

(1) Every person who gains reliable knowledge of a death or injury resulting from a knife wound, bullet wound, powder burn or sustained in a suspicious or unusual manner or under conditions suggesting poisoning or violence, shall make a report thereof immediately, and in any case within five days of obtaining such knowledge, to any law enforcement official. Said report shall state to the best of the reporter’s knowledge:

- (a) The name and location of the injured or deceased person;
- (b) The date of injury or death, or date of gaining knowledge thereof by an informant, if date of injury or death is unknown;
- (c) The cause and manner of injury or death; and
- (d) The name of the person causing the injury or death.

(2) No person making a report in compliance with this section shall be deemed to have violated the confidential relationship existing between doctor and patient.

(3) Copies of such report shall be furnished without charge to the Pohnpei Public Defender at his request.

(4) Any person violating Subsection (1) of this section shall be guilty of failure to report a wound or death and upon conviction thereof shall be imprisoned for a period of not more than six months or fined not more than \$500, or both such fine and imprisonment.

Source: S.L. No. 3L-89-95 §2-7, 4/6/95

§§10-123 – 10-130. [RESERVED]

PART C ESCAPE

§10-131. Escape. — Every person who unlawfully assists any prisoner or any person whose freedom of movement has been restricted by order of the court to depart from lawful custody or place of restriction except by due process of law; or whosoever, being a prisoner or detainee unlawfully and willfully departs from such custody or place of restriction, shall be guilty of escape, and upon conviction thereof shall be imprisoned for a period of not more than three years or fined not more than \$1,000, or both such fine and imprisonment.

Source: S.L. No. 3L-89-95 §3-5, 4/6/95

§10-132. Unlawful rescue. — Every person who unlawfully, knowingly, and willfully provides any assistance to any prisoner or person whose freedom of movement has been restricted by order of the court in flight from lawful custody or place of restriction shall be guilty of unlawful rescue, and upon conviction thereof shall be imprisoned for a period of not more than three years or fined not more than \$1,000, or both such fine and imprisonment.

Source: S.L. No. 3L-89-95 §3-19, 4/6/95

§§10-133 – 10-140. [RESERVED]

PART D BRIBERY

§10-141. Bribery. — Every person who unlawfully and voluntarily attempts to give or receive anything of value in wrongful and corrupt payment for an official act done or not done shall be guilty of bribery, and upon conviction thereof shall be imprisoned for a period of not more than three years, or fined not more than three times the value of the payment received, or both such fine and imprisonment; or, if the value of the payment cannot be determined in dollars, shall be imprisoned for a period of not more than three years or fined not more than \$1,000, or both such fine and imprisonment.

Source: S.L. No. 3L-89-95 §4-1, 4/6/95

§§10-142 – 10-150. [RESERVED]

PART E INTERFERENCE WITH ENFORCEMENT OF LAW OR JUDICIAL OR LEGISLATIVE PROCEEDINGS

§10-151. Perjury. — Every person who takes an oath or any legal substitute therefor before a competent tribunal, or the Legislature or a duly authorized committee thereof, or before any officer, or person, in any case or hearing in which a law of Pohnpei authorizes an oath or any legal substitute therefor to be administered, that he will testify, declare, depose or certify truly, or that any written testimony, deposition or certificate by him subscribed is true, and who willfully and contrary to such oath or legal substitute therefor states or subscribes any material which he does not believe to be true, shall be guilty of perjury, and upon conviction thereof shall be imprisoned for a period of not more than three years or fined not more than \$1,000, or both such fine and imprisonment.

Source: S.L. No. 3L-89-95 §3-17, 4/6/95

§10-152. Obstructing justice. — Every person who unlawfully resists or interferes with any law enforcement officer in the lawful pursuit of his duties, or who unlawfully tampers with witnesses or attempts to prevent their attendance at trials, shall be guilty of obstructing justice, and upon conviction thereof shall be imprisoned for a period of not more than one year or fined not more than \$500, or both such fine and imprisonment.

Source: S.L. No. 3L-89-95 §3-15, 4/6/95

§10-153. Interference with service of process. — Every person who knowingly and willfully obstructs, resists or opposes any policeman or other person duly authorized in serving or executing or attempting to serve or execute any process issued by a court or official authorized to issue the same, shall be guilty of interference with service of process and, upon conviction thereof, shall be imprisoned for a period of not more than six months or fined not more than \$500, or both such fine and imprisonment.

Source: S.L. No. 3L-89-95 §3-11, 4/6/95

§10-154. Criminal contempt. — Every person who unlawfully, knowingly, and willfully interferes directly with the operation and function of a court, or the Legislature or a duly authorized meeting of a committee thereof, by open defiance of an order, in or near the courtroom, or legislative chamber or meeting room; or by disturbing the peace in or near the courtroom, legislative chamber or meeting room; or, when a witness, by refusing to answer lawful questions; or resists or refuses, or fails to comply with a lawful order of the court or the Legislature or a duly authorized committee thereof, or interferes with an officer of the court, Legislature or duly authorized committee thereof in the pursuit of his official duties, shall be guilty of criminal contempt and upon conviction thereof shall be imprisoned for a period of not more than six months or fined not more than \$100, or both such fine and imprisonment.

Source: S.L. No. 3L-89-95 §3-3, 4/6/95

PART F ETHICS

§10-155. Outside employment or financial interest. —

(1) No public officer or employee of the Pohnpei Government, as defined by the Pohnpei Ethics Act, Title 9 Chapter 8, shall knowingly and willfully engage in any outside employment, including teaching, lecturing or writing, which may result in a conflict, or apparent conflict, between the private interests of the officer or employee and his official duties and responsibilities.

(2) An officer or employee is free to engage in the same lawful transactions as private citizens except that an officer or employee may not have direct or indirect financial interests that conflict substantially, or appear to conflict substantially, with his responsibilities and duties as an officer or employee.

(3) No officer or employee of the Pohnpei Government, as defined by the Pohnpei Ethics Act, Title 9 Chapter 8, may knowingly and willfully engage, either directly or indirectly, in a financial transaction as a result of, or primarily relying upon, information obtained through his position or employment.

(4) Any person who violates any provision of this section shall, in addition to all other civil and criminal penalties prescribed or recognized by law, be guilty of a misdemeanor and upon conviction thereof be fined not more than \$1,000 or imprisoned not more than 180 days, or both such fine and imprisonment.

Source: S.L. No. 3L-89-95 §3-20, 4/6/95

Note: §3-20 was inserted by S.L. No. 5L-11-00 §4-2, 8/1/00.

§10-156. Use of state property or information. —

(1) No public officer or employee of the Pohnpei Government, as defined by the Pohnpei Ethics Act, Title 9 Chapter 8, shall use state property of any kind for any use other than officially approved activities.

(2) No public officer or employee, so defined, shall, directly or indirectly, make use of, or permit others to make use of, for the purpose of furthering a private interest, official information not made available to the general public.

(3) Any person who violates any provision of this section shall, in addition to all other civil and criminal penalties prescribed or recognized by law, be guilty of a misdemeanor and upon conviction thereof be fined not more than \$1,000 or imprisoned not more than 180 days, or both such fine and imprisonment.

Source: S.L. No. 3L-89-95 §3-21, 4/6/95

Note: §3-21 was inserted by S.L. No. 5L-11-00 §4-3, 8/1/00. S.L. No. 5L-11-00 §4-1 amendment to Title of Chapter 3 of S.L. No. 3L-89-95, the Pohnpei Crimes Act of 1994 has been omitted.

**CHAPTERS 11 & 12
[RESERVED]**

CHAPTER 13 OBSCENE COMMUNICATIONS

Section

13-101 Prohibited behavior

13-102 Telephone surveillance

§13-101. Prohibited behavior. — Any person who intentionally harasses, annoys, threatens or alarms another person by means of obscene or offensive language or written description communicated, anonymously or otherwise, by telephone or other communication device shall be guilty of harassment via communications systems and upon conviction thereof shall be imprisoned for not more than six months, fined not more than \$500, or both such fine and imprisonment.

Source: S.L. No. 3L-31-93 §1, 3/15/93

§13-102. Telephone surveillance. — Upon submission of a certified affidavit to the Pohnpei Supreme Court by the victim of telephone harassment, the court may order the police and the FSM Telecommunications Corporation to jointly monitor incoming telephone messages, using the best available electronic detection devices, in order to aid in the identification and apprehension of violators of this chapter.

Source: S.L. No. 3L-31-93 §2, 3/15/93

CHAPTER 14 [RESERVED]

CHAPTER 15 FIRE CONTROL

Section

15-101 Fires to clear land; permission required

15-102 Penalties

§15-101. Fires to clear land; permission required. — No fires to clear land, including the burning of stumps, logs, brush, dry grass or fallen timber, shall be started without the prior written permission of the Governor or his authorized representative. Whether authorized by permit or not, no fires shall be started during a heavy wind or without sufficient help present to control the same, and the fire shall be watched by the person setting it, or by his competent agents, until put out.

Source: TTC §765 (1966); 63 TTC §451 (1970); 63 TTC §451 (1980)

§15-102. Penalties. —

(1) A person who, without proper and valid authorization, sets any fire in violation of §15-101 shall be guilty of a misdemeanor, and liable to be fined up to \$100 or imprisoned not more than one month, or both such fine and imprisonment.

(2) A person who, without proper and valid authorization:

(a) Willfully, maliciously or negligently sets on fire or causes to be set on fire any woods, brush, prairies, grass, grain or stubble on any lands not owned, leased or controlled by him, or

(b) Willfully, maliciously or negligently allows a fire to escape from land owned, leased or controlled by him whereby any property of another is injured or destroyed; or

(c) Accidentally sets or causes to be set any fire on land not owned, leased or controlled by him or sets or causes to be set any fire on land owned, leased or controlled by him which spreads to the land of another, and allows such fire to escape from his control without using every effort to extinguish it, shall be deemed guilty of a misdemeanor and liable to be fined not more than \$100 or imprisoned for a period of not more than six months, or both such fine and imprisonment.

(3) Setting such fires or causing or permitting them to be set or allowing them to escape shall be prima facie proof of willfulness, malice or negligence under this section; PROVIDED that nothing herein contained shall apply to a person who in good faith sets a backfire to check a fire already burning; PROVIDED FURTHER, that nothing in this section shall be construed to prohibit the use of food, brush, grass or other vegetable fuels in properly set and controlled cooking, heating or industrial fires.

Source: TTC §766 (1966); 63 TTC §452 (1970); 63 TTC §452 (1980)

CHAPTER 16 MISUSE OF GOVERNMENT PROPERTY

Section

Part A Government Vehicles

16-101 Definitions

16-104 Exemption

16-102 Government vehicles

16-105 Vehicle identification

16-103 Penalties

Part B Credit and Cash Flow Cards

16-106 Prohibition

16-108 Criminal remedies

16-107 Existing cards

16-109 Civil remedies

PART A GOVERNMENT VEHICLES

§16-101. Definitions. —

(1) As used in this part, “vehicle” means any automobile, car, truck, bus, rover, station wagon, jeep, van, cycle, and any other motorized means of overland conveyance and any craft, ship, boat, vessel, and any other motorized means of oversea conveyance.

(2) As used in this part, “government vehicle” means any vehicle owned, leased, operated or otherwise entrusted to the care or custody of the state or any agency, department, bureau, commission, authority, local government or political subdivision of the state.

Source: S.L. No. 2L-90-89 §1, 2/28/89

§16-102. Government vehicles. —

(1) It shall be unlawful for any person to knowingly and willfully operate a government vehicle without having first obtained a government motor vehicle operator’s identification card.

(2) It shall be unlawful for any person to knowingly and willfully possess, operate, occupy or otherwise use government vehicles, wherever situated, without proper authority. Except for circumstances as in Subsection (4) of this section, proper authority shall not include nonofficial or personal uses under any other circumstances.

(3) No person shall knowingly and willfully operate a government vehicle except during regular working hours without a written permit therefor prominently displayed on the dashboard of the vehicle, which permit shall prescribe the times and places of authorized use, authorized operators and passengers, and duration of validity; PROVIDED that permitted vehicles shall be used for causes that are official and governmental in nature and not for any personal and private activities that may include shopping, sakau market, picnicking, parties and other uses that are personal and non-governmental. The permit shall be signed by either the Governor, the Speaker of the Legislature, the Chief Justice of the Pohnpei Supreme Court or the Public Auditor of the Pohnpei Government or in the absence of such official, the person officially acting in such capacity according to the branch of government to which the vehicle is assigned.

(4) Except in emergency cases, no operator of a government vehicle shall knowingly and willfully carry or allow any unauthorized passenger to ride in or upon that vehicle.

(5) Except for local government vehicles, every government vehicle, unless otherwise provided, shall be parked in a central location or locations designated by the Governor at all times it is not in active government use. The Governor shall provide security at said locations for the protection of

such vehicles. No government vehicle may be parked at a private residence nor used as transportation to or from private residences to places of government employment.

(6) No government officer, employee, supervisor or other government employee charged with the care or custody of a government vehicle shall knowingly and willfully or recklessly permit or allow such vehicle to be operated or used in violation of any provision of this section.

Source: S.L. No. 2L-90-89 §2, 2/28/89; S.L. No. 7L-99-11 §1, 8/12/11

§16-103. Penalties. — Any person who violates any provision of this part shall, in addition to all other civil and criminal penalties prescribed or recognized by law, be guilty of a misdemeanor and upon conviction thereof be fined not more than \$1,000, or imprisoned not more than 60 days, or both such fine and imprisonment.

Source: S.L. No. 2L-90-89 §3, 2/28/89

§16-104. Exemption. — §16-102(3) shall not be applicable to official vehicles assigned for the use of the Governor, Chief Justice, Speaker, the Lieutenant Governor and Public Auditor; PROVIDED that vehicles that are assigned and used for emergency purposes such as ambulances, fire trucks and police vehicles shall also be excluded from §16-102(3).

Source: S.L. No. 2L-90-89 §4, 2/28/89; S.L. No. 7L-99-11 §2, 8/12/11

§16-105. Vehicle identification. — Every government vehicle shall display in a prominent location thereon, a seal, insignia or decal which shall indicate government ownership; PROVIDED that any government vehicle may be operated without such markings when reasonably necessary for law enforcement or police investigations.

Source: S.L. No. 2L-90-89 §5, 2/28/89

PART B CREDIT AND CASH FLOW CARDS

§16-106. Prohibition. — Notwithstanding any internal procurement code or rule which may provide otherwise, no officer or employee of the Pohnpei Government and no officer or employee of any public corporation or other public entity established by Pohnpei law may utilize a credit card or cash flow card, which bears the name of the Pohnpei Government or such public corporation or other entity or the use of which will result in any direct financial charge against the Pohnpei Government or against any public corporation or other public entity established by Pohnpei law, or against any assets thereof, or the use of which will result in any automatic financial deduction or withdrawal from any account or fund of the Pohnpei Treasury or any account or fund of a public corporation or other public entity established by Pohnpei law.

Source: S.L. No. 5L-03-00 §1, 5/31/00

§16-107. Existing cards. — Any person subject to §16-106, in possession of, or having authority over a credit or cash flow card described in §16-106 or after the effective date of this part [*May 31, 2000*], shall, within ten working days following the effective date of this part, render the card unusable and deliver the card, so nullified, to the Governor along with a written report of the steps which have been taken to notify the issuer of the card that the card has been canceled. Said report shall also include a description of all steps being taken to close any lines of credit or debit authority and any outstanding charges that remain on the account or line of credit which the card represents.

Source: S.L. No. 5L-03-00 §2, 5/31/00

§16-108. Criminal remedies. — Following the effective date of this part [*May 31, 2000*], any person who shall knowingly and willfully use or attempt to use any credit card or cash flow card in violation of §16-106 shall be guilty of a felony and, upon conviction thereof, shall be fined not more than \$2,000, or imprisoned not more than two years, or both so fined and imprisoned.

Source: S.L. No. 5L-03-00 §3, 5/31/00

§16-109. Civil remedies. — Following the effective date of this part [*May 31, 2000*], any person who shall knowingly and willfully use or attempt to use any credit card or cash flow card in violation of §16-106, in addition to such criminal penalties as prescribed by §16-108 and all other sanctions as may be prescribed by law, shall be personally liable to reimburse the Pohnpei Government or public entity upon which the credit or debit is made for all charges and debits and all interest and other fees which may attach thereto, resulting from the use of the card in violation of this part.

Source: S.L. No. 5L-03-00 §4, 5/31/00

CRIMINAL LAW

(Next page is Title 62 divider)