
AN ACT

To establish the judicial organization of the Federated States of Micronesia, and for other purposes.

BE IT ENACTED BY THE CONGRESS OF THE FEDERATED STATES OF MICRONESIA:

1 Section 1. Short title. This act is known and may be cited as the
2 Judiciary Act of 1979.

3 Section 2. Supreme Court. The judicial authority in the Federated
4 States of Micronesia is vested in the Supreme Court of the Federated
5 States of Micronesia.

6 Section 3. Composition of the Supreme Court. The Supreme Court
7 shall consist of a Chief Justice and one other Associate Justice and such
8 others as may be prescribed by law.

9 Section 4. Special assignments. The Chief Justice may give
10 special assignments pursuant to Article XI, Section 9(b) of the Constitu-
11 tion. In the case of temporary Justices appointed pursuant to this
12 authority:

13 (1) The person appointed shall meet the qualifications of
14 Section 7 of this act.

15 (2) The Congress may by resolution disapprove of the continued
16 service of any temporary Justice whose cumulative service exceeds three
17 months, and the disapproved person shall thereafter be ineligible for
18 further service as a temporary Justice for one year, unless the Congress
19 shall sooner revoke its disapproval.

20 (3) The Chief Justice shall give notice to the President and
21 the Congress upon the appointment of any temporary Justice.

22 Section 5. Vacancy in the Office of Chief Justice. Whenever the

1 Office of Chief Justice is vacant or the Chief Justice is unable to
2 perform the duties of office, and no appointment of an Acting Chief
3 Justice has been made by the Chief Justice or the President pursuant to
4 Article XI, Section 4 of the Constitution, the powers and duties of the
5 office shall devolve upon the Associate Justice senior in precedence who
6 is able to act, until such disability is removed or another Chief Justice
7 is appointed and duly qualified.

8 Section 6. Precedence of Associate Justices. Associate Justices
9 shall have precedence according to the seniority of their commissions.
10 Justices whose commissions bear the same date shall have precedence
11 according to seniority in age.

12 Section 7. Qualifications of Supreme Court Justices. A person
13 nominated to the position of Chief Justice or Associate Justice of the
14 Supreme Court shall:

- 15 (1) be at least 30 years of age at the time of nomination; and
16 (2) be a graduate from an accredited law school and be admitted
17 to practice law in any jurisdiction, or be a person of equivalent and
18 extraordinary legal ability obtained through at least five years of
19 experience practicing law.

20 Section 8. Trial Division sessions. The Trial Division shall be
21 continuously in session subject to recess and shall serve the States of
22 Kosrae, Yap, Truk and Ponape as needed and as consistent with their
23 respective charters.

24 Section 9. Appellate Division sessions. The Appellate Division
25 shall convene from time to time as may be necessary for the efficient

1 disposition of appellate matters. A single Appellate Division Justice
2 may make all necessary orders concerning any appeal prior to the hearing
3 and determination thereof, subject to review by the full Appellate
4 Division.

5 Section 10. Clerks of Courts. The Chief Justice of the Supreme
6 Court may appoint a Clerk of the Supreme Court, who shall maintain an
7 office in Ponape. The Clerk of the Supreme Court shall perform those
8 duties prescribed by the Chief Justice. The Chief Justice may also appoint
9 Assistant Clerks in the States who may also serve as clerks of the State
10 or District Courts. The Clerk of the Supreme Court in Ponape shall be
11 the Chief Clerk. The Clerks of the Supreme Court shall perform those duties
12 prescribed by the Chief Justice.

13 Section 11. Other employees. The Chief Justice may appoint and
14 prescribe duties for such other officers and employees of the Supreme
15 Court as he deems necessary, and may delegate this authority to an Associate
16 Justice.

17 Section 12. Assessors. Any Justice of the Supreme Court may appoint
18 one or more assessors to advise him at the trial of any case with respect
19 to local law or custom or such other matters requiring specialized
20 knowledge. All such advice shall be of record and the assessors shall be
21 subject to examination and cross-examination by any party.

22 Section 13. Removal of Clerks, officers, and employees. The Chief
23 Justice may remove any Clerk, officer, or employee of the Supreme Court
24 for good cause. The removal may be appealed to the Appellate Division of
25 the Supreme Court.

1 Section 14. Assistance to State courts. Pursuant to Article XI,
2 Section 10 of the Constitution:

3 (1) The Chief Justice of the Supreme Court shall establish
4 suitable arrangements and procedures for State Court utilization of
5 facilities, Clerks, officers, and employees of the Supreme Court and for
6 Supreme Court utilization of facilities, Clerks, officers, and employees
7 of the State or District courts. The Chief Justice may delegate this
8 authority to an Associate Justice.

9 (2) The Justices of the Supreme Court shall make themselves
10 available, to the extent not inconsistent with the proper performance of
11 their duties as Supreme Court Justices, for appointment as temporary
12 judges of State or District courts or assessors on matters of law on
13 State courts.

14 Section 15. Seal. The Appellate Division of the Supreme Court
15 shall have a seal which shall be kept in the custody of the Clerk of the
16 Supreme Court in Ponape. The Trial Division of the Supreme Court shall
17 have seals which shall be kept in the custody of the Assistant Clerks of
18 the Supreme Court in each State.

19 Section 16. General powers of the Supreme Court. The Supreme
20 Court and each division thereof shall have power to issue all writs and
21 other process, make rules and orders, and do all acts, not inconsistent
22 with law or with the rules of procedure and evidence established by the
23 Chief Justice, as may be necessary for the due administration of justice,
24 and, without limiting the generality of the foregoing, may grant bail,
25 accept and cause forfeit of security therefor, make orders for the

1 attendance of witnesses with or without documents, and make orders for
2 the disposal of exhibits.

3 Section 17. Authority to administer oaths and take acknowledgements.

4 Each Justice, Clerk, and assistant clerk of the Supreme Court shall have
5 power to administer oaths and affirmations, take acknowledgements, and
6 exercise all powers of a Notary Public.

7 Section 18. Contempt.

8 (1) Any Justice of the Supreme Court shall have the power to
9 punish contempt of court. Contempt of court is:

10 (a) any intentional obstruction of the administration of
11 justice by any person, including any clerk or officer of the court acting
12 in his official capacity; or

13 (b) any intentional disobedience or resistance to the
14 court's lawful writ, process, order, rule, decree or command.

15 (2) All adjudications of contempt shall be pursuant to the
16 following practices and procedures:

17 (a) any person accused of committing any civil contempt
18 shall have a right to notice of the charges and an opportunity to present
19 a defense and mitigation. A person found in civil contempt may be
20 imprisoned until such time as he complies with the order or pays an amount
21 necessary to compensate the injured party, or both;

22 (b) any person accused of committing a criminal contempt
23 shall have a right to notice of the charges and an opportunity to present
24 a defense and mitigation; PROVIDED, HOWEVER, that no punishment of a fine
25 of more than \$100 or imprisonment shall be imposed unless the accused is

1 given a right to notice of the charges, to a speedy public trial, to con-
2 front the witnesses against him, to compel the attendance of witnesses in
3 his behalf, to have the assistance of counsel, and to be released on bail
4 pending adjudication of the charges. He shall have a right to be charged
5 within three months of the contempt and a right not to be charged twice
6 for the same contempt; and

7 (c) a person found to be in contempt of court shall be
8 fined not more than \$1,000 or imprisoned for not more than six months.

9 (3) Any adjudication of contempt is subject to appeal to the
10 Appellate Division of the Supreme Court. Any punishment of contempt may
11 be stayed pending appeal, but a punishment of imprisonment shall be
12 stayed on appeal automatically, unless the court finds that a stay of
13 imprisonment will cause an immediate obstruction of justice, which finding
14 must be supported by written findings of fact. A denial of a stay of
15 imprisonment is subject to review.

16 Section 19. Sessions and records to be public.

17 (1) All sessions and records of the Supreme Court shall be
18 public, except when otherwise ordered by the Court for good cause.

19 (2) Any person desiring to attend any session that has been
20 closed or view any record that has been suppressed may petition the Court
21 closing the session or suppressing the record. Any interested person may
22 appeal the action of the Court on said petition to the Appellate Division
23 of the Supreme Court.

24 Section 20. Publication of decisions. All decisions of the Appellate
25 Division of the Supreme Court, including concurring and dissenting opinions,

1 shall be published. The Trial Division of the Supreme Court may order
2 one or more of its decisions to be published.

3 Section 21. Judicial ethics. Justices of the Supreme Court shall
4 adhere to the standards of the Code of Judicial Conduct of the American
5 Bar Association except as otherwise provided by law or rule. The Chief
6 Justice may by rule prescribe stricter or additional standards.

7 Section 22. Practice of Law prohibited. No Justice, Clerk, officer,
8 or employee of the Supreme Court shall practice law in the Federated
9 States of Micronesia.

10 Section 23. Disqualification of Supreme Court Justice.

11 (1) A Supreme Court Justice shall disqualify himself in any
12 proceeding in which his impartiality might reasonably be questioned.

13 (2) He shall also disqualify himself in the following cir-
14 cumstances:

15 (a) where he has a personal bias or prejudice concerning
16 a party or his counsel, or personal knowledge of disputed evidentiary
17 facts concerning the proceeding;

18 (b) where in private practice he served as lawyer in the
19 matter in controversy, or a lawyer with whom he previously practiced law
20 served during such association as a lawyer concerning the matter, or
21 the Justice or such lawyer has been a material witness concerning it.

22 The term private practice shall include practice with legal service or
23 public defender organizations;

24 (c) where he has served in governmental employment and in
25 such capacity participated as counsel, adviser, or material witness

1 concerning the proceeding or expressed an opinion concerning the merits
2 of the particular case in controversy;

3 (d) where he knows that he, individually or as a
4 fiduciary, or his spouse or minor child residing in his household, has
5 a financial interest in the subject matter in controversy or in a party
6 to the proceeding, or any other interest that could be substantially
7 affected by the outcome of the proceeding;

8 (e) where he or his spouse, or a person within a close
9 relationship to either of them, or the spouse of such a person is:

10 (i) a party to the proceeding, or an officer, director,
11 or trustee of a party;

12 (ii) acting as lawyer in the proceeding;

13 (iii) known by the Justice to have an interest that
14 could be substantially affected by the outcome of the proceeding;

15 (iv) to the Justice's knowledge likely to be a
16 material witness in the proceeding.

17 (3) Upon taking office and every year thereafter, a Justice
18 shall list as of record the personal and fiduciary financial interests
19 of himself and his spouse and minor children residing in his household.

20 (4) For the purposes of this section the following words or
21 phrases shall have the meaning indicated:

22 (a) "proceeding" includes pretrial, trial, appellate
23 review, or other stages of litigation;

24 (b) "fiduciary" includes such relationships as executor,
25 administrator, trustee, and guardian;

1 (c) "financial interest" means ownership of a legal or
2 equitable interest, however small, or a relationship as director, adviser,
3 or other active participant in the affairs of a party, except that:

4 (i) ownership in a mutual or common investment fund
5 that holds securities is not a "financial interest" in such securities
6 unless the judge participates in the management of the fund or if the
7 outcome of the proceedings could substantially affect the value of the
8 fund;

9 (ii) an office or membership in an educational,
10 religious, charitable, or civic organization is a "financial interest"
11 in securities held by the organization only if the outcome of the pro-
12 ceeding could substantially affect the value of the securities;

13 (iii) the proprietary interest of a policyholder in
14 a mutual insurance company, of a member of a cooperative association, of
15 a depositor in a mutual savings association or credit union, or a similar
16 proprietary interest, is a "financial interest" in the organization only
17 if the outcome of the proceeding could substantially affect the value of
18 the interest;

19 (iv) ownership of government securities is a
20 "financial interest" in the issuer only if the outcome of the proceeding
21 could substantially affect the value of the securities.

22 (5) No Supreme Court Justice shall accept from the parties to
23 the proceeding a waiver of any ground for disqualification enumerated in
24 Subsection (2). Where the ground for disqualification arises only under
25 Subsection (1), waiver may be accepted provided it is preceded by a full

1 disclosure on the record of the basis for disqualification.

2 (6) A party may move to disqualify a Supreme Court Justice
3 for one or more of the reasons stated in Subsection (1) or (2) of this
4 Section. Said motion shall be accompanied by an affidavit stating the
5 reasons for the belief that grounds for disqualification exist, and shall
6 be filed before the trial or hearing unless good cause is shown for
7 filing it at a later time. Upon receipt of such a motion, the Justice
8 shall rule on it before proceeding further in the matter, stating his
9 reasons for granting or denying it on the record.

10 Section 24. Disposition of fines and fees. The Clerk of the Supreme
11 Court shall periodically transmit to the Treasury of the Federated States
12 of Micronesia all fines and fees collected in the Supreme Court.

13 Section 25. Appellate jurisdiction.

14 (1) The jurisdiction of the Appellate Division of the Supreme
15 Court is as provided in the Constitution.

16 (2) The Appellate Division of the Supreme Court may review
17 other cases appealed to it from a State court if the appeal is permitted
18 by State constitution or district charter.

19 Section 26. Territorial jurisdiction. The jurisdiction of the
20 Supreme Court shall extend to the whole of the Federated States of Micro-
21 nesia as defined in Article I, Section 1 of the Constitution.

22 Section 27. Jurisdiction over persons - Civil. The Supreme Court
23 may exercise personal jurisdiction in civil cases only over persons
24 residing or found in the Federated States of Micronesia or who have been
25 duly summoned and voluntarily appear, except as provided in Section 28 of

1 this act.

2 Section 28. Service of process outside the territorial jurisdiction
3 of the Supreme Court. The jurisdiction of the Supreme Court shall be
4 coextensive with the jurisdiction granted to the courts of the Trust
5 Territory by Public Law No. 7-24 of the Congress of Micronesia and subject
6 to the procedures stated therein.

7 Section 29. Judicial acts outside of territorial jurisdiction. Any
8 action taken by the Supreme Court or a Justice thereof or by a State court
9 or a judge thereof outside the territorial jurisdiction of the court shall
10 be as valid and effective as if taken within the territorial jurisdiction
11 of the court.

12 Section 30. Initial organization of Supreme Court. The Supreme
13 Court is deemed organized when:

14 (1) at least one Justice has taken office; and

15 (2) the Chief Justice of the Trust Territory High Court, upon
16 written request by the Chief Justice of the Supreme Court of the Federated
17 States of Micronesia, certifies that Subsection (1) has been complied with
18 and that the Supreme Court is prepared to hear matters.

19 Section 31. Requisites of certification. Certification by the
20 Chief Justice of the Trust Territory High Court shall be made in English
21 and transmitted to the Chief Justice of the Supreme Court of the Federated
22 States of Micronesia. The Chief Justice of the Trust Territory High
23 Court may also transmit copies of his certification to the President and
24 the Congress and to the State or District Courts.

25 Section 32. Severability. If any provision of this act, or the

1 application thereof to any person or circumstance is held invalid, the
2 invalidity does not affect other provisions or applications of the act
3 which can be given effect without the invalid provision or application,
4 and to this end the provisions of this act are severable.

5 Section 33. Effective date. This act shall become law upon
6 approval by the President of the Federated States of Micronesia, or upon
7 its becoming law without such approval.

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July 20, 1979

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Tosiwo Nakayama
President
Federated States of Micronesia

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