TITLE 32 – CRIMINAL PROCEDURES
CHAPTER 1 - CRIMINAL PROCEDURES ACT

Republic of the Marshall Islands
Jepilpilin Ke Ejukaan

CRIMINAL PROCEDURE ACT

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TITLE 32 – CRIMINAL PROCEDURES
CHAPTER 1 - CRIMINAL PROCEDURES ACT

Republic of the Marshall Islands
Jepilpilin Ke Ejukaan

CRIMINAL PROCEDURE ACT

AN ACT to establish criminal procedure in the Republic and for matters connected therewith.

Commencement:		*Not Specified*
Source:		*TTC 1966*
Amended By:	*12 TTC 1970*	*COM P.L. 7-4 (1977)*
12 TTC 1980	*P.L. 1995-129*	*P.L. 2005-33*

PART I - GENERAL PROVISIONS

§101. Short title.

This Chapter may be cited as the "Criminal Procedure Act".

§102. Reserved. [P.L. 2005-33.]

PART II- PROCESS; WARRANTS AND ARREST

§103. Process obligatory upon police.

(1) All process in any criminal proceedings, in all contempt proceedings, and in juvenile delinquency proceedings, issued in accordance with law and the rules of procedure prescribed in accordance with law, shall be obligatory upon all policemen having knowledge thereof, and any policeman to whom such process is given shall promptly

make diligent effort to execute or serve the same either personally or through another policeman.

(2) This Section shall cover orders to show cause why a person should not be adjudged in contempt, orders of attachment of a person, summons, and all other orders (including an oral order in place of any of the foregoing), issued in either civil contempt proceedings or juvenile delinquency proceedings, as well as all forms of process in criminal proceedings. **[TTC 1966, §489; 12TTC 1970, §51; 12 TTC 1980, §51.]**

§104. Limitation of Arrests Without a Warrant.

No arrest of any person shall be made without first obtaining a warrant therefor, except as provided for in Article II, Section 3 of the Constitution and in decisional law consistent therewith, i.e., if there is not adequate time to get a warrant. **[TTC 1966, §456; 12 TTC 1970, §52; 12 TTC 1980, §52.][Amended by P.L. 2005-33.]**

§§105 -116 - Reserved. [repealed by P.L. 2005-33]

§117. Use of force in making arrest.

In all cases where the person arrested refuses to submit or attempts to escape, such degree of force may be used as is necessary to compel submission. **[TTC 1966, §459; 12 TTC 1970, §65; 12 TTC 1980, §65.]**

§118. Disposition of Persons Arrested by Private Persons.

Any private person making an arrest shall deliver the arrested person to a police officer or a judge without unnecessary delay and shall explain the cause of the arrest. Except where transportation difficulties are involved, or neither a police officer or a judge can be located promptly, such delay should not extend beyond a few hours during the daytime or early evening nor beyond ten o'clock on the following morning in the case of persons arrested during the night time. **[TTC 1966, §462; 12 TTC 1970, §66; 12 TTC 1980, §66][amended by P.L. 2005-33.]**

§119. Disposition of Arrested Persons by Police Officer.

Persons arrested by a police officer, or delivered to him after arrest by a private person, shall be brought without unnecessary delay before a court

competent to try the offender for the criminal offense charged, subject to the following:

(a) If bail has been fixed, it shall be accepted and the arrested person released to appear in accordance with all orders of the court named in the warrant or any court to which the case may be transferred. Reasonable opportunity to raise bail shall be afforded by permitting the person arrested to send a message or messages through a police officer or other persons by telephone, facsimile transmission, messenger, or other expeditious means, to any person likely to assist in securing bail; provided, that such message can be sent without expense to the Government of the Marshall Islands or that the arrested person prepays any expense there may be to the Government.

(b) If it appears that it will not be practicable to bring the arrested person promptly before a court competent to try him for the offense charged, and he has not been released on bail or personal recognizance, he shall be brought before a judge without unnecessary delay. The judge shall commit the arrested person, discharge him, or release him on bail or personal recognizance. Whenever a judge of a District Court is available, the arrested person shall be brought before such a judge in preference to any other judge. **[TTC 1966, §463; 12 TTC 1970, §67; 12 TTC 1980, §67, modified.][amended by P.L. 2005-33.]**

§120. Rights of Persons Arrested.

(1) In any case of arrest it shall be unlawful:

(a) to fail to promptly and in detail inform the arrested person of the nature and cause of the accusation against that person;

(b) to fail to ensure that the arrested person has a prompt opportunity to challenge the arrest's legality;

(c) to deny to the person so arrested the right to see at reasonable intervals, and for a reasonable time at the place of detention, counsel, or members of family, or employer, or a representative of employer;

(d) to refuse or fail to make a reasonable effort to send a message by telephone, facsimile transmission, messenger or other expeditious means, to any person mentioned in paragraph (c)

of this subsection, provided the arrested person so requests and such message can be sent without expense to the Government of the Marshall Islands or the arrested person prepays any expense there may be to the Government;

(e) to fail either to release or charge such arrested person with a criminal offense within a reasonable time, which under no circumstances shall exceed twenty-four (24) hours;

(f) for those having custody of one arrested, before questioning him about his participation in any crime, to fail to inform him of his rights and their obligations under Paragraphs (a)-(e) of this subsection and under Subsection (2) of this section.

(2) In addition, any person arrested shall be advised as follows:

(a) that the person has a right to remain silent and that anything the person says can be used against that person;

(b) that the person has the right to legal assistance of that person's choice and that if the persons lacks funds to procure such assistance, to receive it free of charge if the interests of justice so require; and

(c) the circumstances, if any, under which the person may secure pretrial release. **[TTC 1966, §464; 12 TTC 1970, §68; 12 TTC 1980, §68, modified.][amended by P.L. 2005-33.]**

§121. Effect of irregularities in issuance of warrant of arrest.

The proceedings before a court or an official authorized to issue a warrant of arrest shall not be invalidated, nor any finding, order, or sentence set aside, for any error or omission, technical or otherwise, occurring in such proceedings, unless in the opinion of the reviewing authority or a court hearing the case on appeal or otherwise it shall appear that the error or omission has prejudiced the accused. **[TTC 1966, §497; 12 TTC 1970, §69; 12 TTC 1980, §69.]**

§122. Effect of violation of Chapter.

No violation of the provisions of this Chapter shall in and of itself entitle an accused to an acquittal, but no evidence obtained as a result of such violation shall be admissible against the accused; provided, that any person detained in custody in violation of any provision of this Chapter may, upon motion by any person in his behalf, and after such notice as the court may order, be released from custody by the court named in the warrant, or

before which he has been held to answer. The release shall be upon such terms as the court may deem law and justice require. The relief authorized by this Section shall be in addition to, and shall not bar, all forms of relief to which the arrested person may be entitled by law. **[TTC 1966, §498 and 499; 12 TTC 1970, §70; 12 TTC 1980, §70, modified.]**

PART III - SEARCHES AND SEIZURES

§123. Searches and seizures in connection with arrests.

(1) Every person making an arrest may take from the person arrested all offensive weapons which he may have about his person and may also search the person arrested and the premises where the arrest is made, so far as the premises are controlled by the person arrested, for the instruments, fruits, and evidences of the criminal offense for which the arrest is made, and, if found, seize them.

(2) Any property taken or seized shall be promptly delivered to a policeman or an official authorized to issue a warrant, to be disposed of according to law.

(3) No search warrant shall be required for the actions authorized by this Section. **[TTC 1966, §460; 12 TTC 1970, §101; 12 TTC 1980, §101.]**

§124. Forcing entrance to make arrest.

Whenever it is necessary to enter a building or ship to make an arrest and entrance is refused, any person making an arrest for a felony committed in his presence or a policeman making an arrest may force an entrance. Before breaking any door or other barrier, he shall first demand entrance in a loud voice and state that he desires to execute a warrant of arrest or an oral order in place of a warrant, or, if it is a case in which arrest is lawful without a warrant, he must substantially state that information in a loud voice. Whenever practicable, this demand and statement shall be made in a language generally understood in the locality. **[TTC 1966, §461; 12 TTC 1970, §102; 12 TTC 1980, §102.]**

§§125 -135 - Reserved [Repealed by P.L. 2005-33.]

§136. Effect of irregularities in proceedings to issue search warrant.

The proceedings before a court or an official authorized to issue a search warrant shall not be invalidated, nor any funding, order, or sentence set aside for any error or omission, technical or otherwise, occurring in such proceedings, unless in the opinion of the reviewing authority or a court hearing the case on appeal or otherwise it shall appear that the error or omission has prejudiced the accused. **[TTC 1966, §497; 12 TTC 1970, §114; 12 TTC 1980, §114.]**

PART IV - RIGHTS OF DEFENDANTS

§137. Enumerated.

Every defendant in a criminal case before a court of the Republic shall be entitled:

(a) to have in advance of trial a copy of the charge upon which he is to be tried;

(b) to consult counsel before the trial and to have an attorney-at-law or other representative of his own choosing defend him at the trial;

(c) to apply to the court for further time to prepare his defense, which the court shall grant if it is satisfied that the defendant will otherwise be substantially prejudiced in his defense;

(d) to bring with him to the trial such material witnesses as he may desire or to have them summoned by the court at his request;

(e) to give evidence on his own behalf at his own request at the trial, although he may not be compelled to do so;

(f) to have proceedings interpreted for his benefit when he is unable to understand them otherwise. **[TTC 1966, §187; 12 TTC1970, §151; 12 TTC 1980, §151 modified][paragraph (g) repealed by P.L. 2005-33.]**

PART V - PRELIMINARY MATTERS

§138. Name in which prosecution conducted.

All criminal prosecutions shall be conducted in the name of the "Republic of the Marshall Islands." **[TTC 1966, §486; 12 TTC 1970, §201; 12 TTC 1980, §201, modified.]**

§§139 -155 - Reserved [containing original Parts VI, VII and VIII repealed by P.L. 2005-33.]

PART VI – RESERVED

[Re-numbered as Part VI, with the repeal of original Parts VI, VII and VIII. See §139-155 above][This part is reserved with repealed of the original sections 156 and 157 under this part by P.L.2011-59]