

**Proceedings of Probation under the Penal Code Act, B.E. 2522 (1979)**

**Translation**

BHUMIBOL ADULYADEJ, REX.

Given on the 15<sup>th</sup> Day of March, B.E. 2522;

Being the 34<sup>th</sup> Year of the Present Reign

His Majesty King Bhumibol Adulyadej has been graciously pleased to proclaim that:

Whereas it is expedient to enact the law governing the proceedings of probation under the Penal Code;

Be it, therefore, enacted by the King, by and with the advice and consent of the National Legislative Assembly acting as the National Assembly, as follows:

**Section 1**

This Act shall be called the "Proceedings of Probation under the Penal Code Act, B.E. 2522 (1979)"

**Section 2**

This Act shall come into force from the date following the date of its publication in the Royal Gazette.

**Section 3**

Any laws, rules and other regulations, which are already provided in this Act or in conflict or inconsistent with this Act, shall be replaced by this Act.

**Section 4**

In this Act:

"Probation officer" means a person appointed to exercise power and duty under this Act.

"Court" means any court of justice being competent to exercise criminal jurisdiction, excluding the Juvenile Court.

"Minister" means the Minister being in charge of this Act.

**Section 5**

The Minister or a person assigned by the Minister shall appoint and remove the probation officer in accordance with this Act.

**Section 6**

The probation officer shall have the power and duty in accordance with this Act and other laws, and shall especially have the power and duty as follows:

- (1) by the order of the Court, to investigate matters of and take into consideration for the age, past record, behavior, intelligence, education and training, health, condition of the mind, habit, occupation, environment of the accused and nature of the offense, including other extenuating circumstances, in order to report to the Court;
- (2) to dispatch the accused to medical examiner for the examination of physical and mental health;
- (3) to make a report and comment whether the accused has an ability to improve or rehabilitate, including a comment upon the accused need regarding the measures for controlling behavior;

- (4) to supervise, to inquire, to give advice, to assist and to admonish a probationer on his behavior and occupation;
- (5) to supervise the probationer to comply with conditions specified by the Court;
- (6) to make a report and comment upon the probationer's behavior, occupation and circumstance in order to submit to the Court;
- (7) to perform other duties relating to the probation, as the Court deems appropriate.

### **Section 7**

To perform duties under the Act, the probation officer shall also be empowered as follows:

- (1) to enter into the place where the probationer resides or works or involves between sunrise and sunset, and to inquire any person who stays in such place concerning matters specified in Section 6.

The entry into the aforesaid place of the probation officer between sunset and sunrise shall be made in case of extreme necessity and only by the Court order;

- (2) to summon a person, capably to provide facts concerning matters specified in Section 6, to appear, and swear or make an affirmation, and then give a statement;
- (3) to order the owner or the possessor to submit materials or documents that shall be used as the evidence concerning the matters specified in Section 6.

### **Section 8**

To perform duties under Section 6 (1) or Section 6 (2), the probation officer may request the Court to hand over the accused to the probation officer.

### **Section 9**

To perform duties under this Act, the probation officer shall present his identity card to any person concerned.

The identity card shall be issued in accordance with the form prescribed by Ministerial Regulation.

### **Section 10**

To perform duties under this Act, the probation officer shall be an official under the Penal Code.

### **Section 11**

Where the case does not appear that the accused has received the punishment of imprisonment previously, or it appears that the accused has received the punishment of imprisonment previously but it is the punishment for an offense committed by negligence or a petty offense, the Court is empowered to order the probation officer at anytime before the judgment is passed to investigate matters of and take into consideration for the age, past record, behavior, intelligence, education and training, health, condition of the mind, habit, occupation and environment of the accused, including the nature of the offense and other extenuation circumstances, accompanied by comment under Section 6 (3), and then report to the Court for consideration.

When the Court receives the report and comment under the first paragraph, if the Court deems it appropriate, the Court is empowered to summon the probation officer or the accused to be inquired, or order the probation officer to investigate additional information and take into consideration for additional facts.

### **Section 12**

When the Court orders the probation officer to investigate and to take into consideration facts under Section 11, the probation officer shall investigate and take into consideration

without delay, and shall make a report and propose a comment to the Court within fifteen days from the day that the Court orders. However, if a report and comment cannot be made completely within such period, the Court may extend the period of time as it is necessary, but it shall not exceed thirty days.

### **Section 13**

The Court is empowered to admit the probation officer's report and comment under Section 11 regardless of the corroboration of witness. However, if the Court uses the report to the detriment of the accused, the Court shall notify such detrimental statement to the accused. When the accused raises an objection, the probation officer is entitled to adduce evidence in corroboration of the report and comment, and then the defendant is entitled to adduce evidence for rebuttal.

### **Section 14**

In case where the Court passes a judgment finding that the accused is guilty but the determination of the punishment is to be suspended, or the punishment is determined but the infliction of the punishment is to be suspended, and the Court specifies conditions for controlling the accused behavior under the Penal Code, the Court shall notify the probation officer to proceed with the probation as specified by the Court.

### **Section 15**

If the probationer fails to comply with conditions for the probation as determined by the Court, or the probationer's circumstance concerning the probation is changed, the probation officer shall make a report and submit it to the court without delay. However, if such report is detrimental to the probationer, the Court shall summon the probationer and notify the same of the detrimental statement. In such case, the probationer is entitled to object and adduce evidence for rebuttal, and Section 13 shall be applied *mutatis mutandis*.

If the probationer refuses to comply with a summon or an undertaking to appear, or intends to avoid the summon, or has absconded, or is reasonably suspected of intending to abscond, the Court shall be empowered to issue the warrant of arrest against the probationer in order to proceed for further step.

### **Section 16**

In case where the request or the statement under Section 56 paragraph three or Section 57 of the Penal Code are made, the Court is empowered to summon the probation officer to be inquired or given statement in corroboration of such request or statement.

### **Section 17**

In case where the Court had determined that the probationer's circumstance concerning probation had been changed, or the probationer had failed to comply with the condition for the probation specified by the Court, and the Court issued the order to modify the judgment or the order concerning the punishment, the Court shall notify the probationer officer. If the modification of judgment or order causes more detriments to the probationer, the probationer is entitled to appeal such modification order.

Judgment or order of the Appeal Court shall be final.

### **Section 18**

Unless specifically provided in this Act, any procedure under the provisions of the Criminal Procedure Code shall be applied as far as possible.

### **Section 19**

Whoever, being the owner or the possessor of the place where the accused or the probationer resides or works or involves, refuses to permit the probation officer to enter into such place, or refuses to reply the probation officer's inquiry under Section 7 (1) shall be punished with fine not exceeding five hundred Baht.

## **Section 20**

Whoever refuses to comply with the order of the probation officer by not represent himself to the probation officer, or not swear under oath or make affirmation, or not give statement under Section 7 (2), or not submit the materials or documents under Section 7 (3) shall be punished with fine not exceeding one thousand Baht.

## **Section 21**

Whoever, being an official having duty under this Act, and knows or acquires a private secret of another person by reason of performing his duty, discloses such private secret beyond his authority in a manner likely to cause injury to such another person shall be punished with imprisonment not exceeding six months or fine not exceeding one thousand Baht, or both.

## **Section 22**

The Minister of Justice shall be in charge of this Act and shall be empowered to issue Ministerial Regulations for the implementation of this Act.

The Ministerial Regulations shall come into force after their publication in the Royal Gazette.

Countersigned by

Mr. S. Hotrakitya

Deputy Prime Minister

## **Remark**

The reason for the promulgation of this Act is as follows:

Whereas the Section 56 of the Penal Code has provided covering the proceedings of probation of the offender. The Court is empowered to release the offender so as to give such person an opportunity to reform himself by the decision that such person is guilty, but the determination of the punishment is to be suspended, or the punishment is determined, but such punishment is to be suspended, and determine conditions to control behavior of such person. It is appropriate to set regulation to provide authority, as well as the proceedings of probation, for probation officers so as to make the Penal Code comprehensive in enforcement. It is, therefore, necessity to enact this Act.

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