

Unofficial Translation\***Probation Act, B.E. 2559 (2016)**

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BHUMIBOL ADULYADEJ, REX.

Given on the 29<sup>th</sup> Day of September, B.E. 2559

Being the 71th 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 probation;

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 “Probation Act, B.E. 2559”

**Section 2.** This Act shall come into force as after a hundred and eighty day from the date of its publication in the Government Gazette.

**Section 3.** The following shall be repealed:

- (1) Proceedings of Probation under the Penal Code Act, B.E. 2522 (1979)
- (2) Proceedings of Probation under the Penal Code Act (No.2), B.E. 2550 (2007)

**Section 4.** In this Act;

“Probation” means social investigation, supervision of the probationers to comply with the conditions set by the court or the competent authority, including offender rehabilitation.

"Court" means any court of justice being competent to exercise criminal jurisdiction.

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\* Translated by Foreign Affairs and Research Development Group, Probation Development Bureau, Department of Probation.

“Social investigation” means fact finding about the background of the investigated person in order to prepare the report and sentence recommendation for the court or the competent authority.

“A person under social investigation” means an alleged offender, a defendant, a prisoner, or other individual who is prescribed by the law to have an investigation done by a probation officer.

“Supervision” means supervising and monitoring the probationer to comply with the conditions set by the court.

“Probationer” means an alleged offender, a defendant, a prisoner, or other individual whom the court or the competent authority orders to comply with the conditions set by the law under the supervision of a probation officer.

“Probation office” means a probation office under the Department of Probation.

“Committee” means the probation committee.

“Probation officer” means a person appointed by the Minister to exercise power and duty under this Act.

“Volunteer probation officer” means a person appointed by the Director-General to assist probation officers under this Act.

“Narcotics” means the narcotics under the law on narcotics, the psychotropic substances under the law on psychotic substances, and the volatile substances under the law on controlling the use of volatile substances.

“Director-General” means the Director-General of the Department of Probation.

“Minister” means the Minister being in charge of this Act

**Section 5.** The Minister of Justice shall be in charge of this Act and shall have the power to appoint and discharge probation officers, and to issue ministerial regulations, rules, and announcements for implementation of this Act.

Ministerial regulations, rules, and announcements shall be enforced from the time of its publication in the Government Gazette.

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## Chapter 1

### Probation Committee

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**Section 6.** There shall be a Probation Committee, consisting of the Minister of Justice as Chairperson, the Permanent-Secretary of the Ministry of Justice as Vice-chairperson, the Permanent-Secretary of the Ministry of Social Development and Human Security, the Permanent-Secretary of the Ministry of Education, the Director-General of the Judge Advocate General's Department, the Director-General of the Department of Employment, the Director-General of the Department of Provincial Administration, the Director-General of the Department of Medical Services, the Director-General of the Department of Skill Development, the Director-General of the Department of Juvenile Observation and Protection, the Director-General of the Department of Corrections, the Director-General of the Department of Mental Health, the Secretary-General of Office of the Narcotics Control Board, the Royal Thai Police Commissioner, the Secretary-General of the Court of Justice, the Attorney-General, the President of Lawyers Council as member of the Committee, and not more than five qualified members as appointed by the Minister from experts or person having experiences in the field of Law, Criminology, Penology, Justice Administration, Sociology and Anthropology, Social Work, Psychology, Psychiatry or others relevant to probation services.

Director-General of the Department of Probation shall act as a member and Secretary of the Committee and shall appoint not exceeding two government officials of the Department of Probation to be Assistance Secretary of the Committee.

**Section 7.** The qualified members shall possess general qualifications and not be under a prohibition as follows:

- (1) being of Thai nationality;
- (2) being at least thirty-five years of age;

- (3) not being a holder of a political position, a member of local council, a local administrator, a committee member or a holder of an executive position in a political party, a member or an officer of a political party;
- (4) not being a government official holding a permanent position or receiving salary, with the exception of a lecturer in a public university
- (5) not being adjudged bankrupt;
- (6) not being an incompetent or quasi-incompetent person;
- (7) not having been sentenced by a final judgement to imprisonment notwithstanding the suspension of sentence, except for an offence committed through negligent or a petty offence;
- (8) not having been punished by discharge, dismissal or expulsion from official service, a State agency or a State enterprise for breach of discipline.

**Section 8.** A qualified member shall hold office for a term of three years. An outgoing member may be re-appointed but not for more than two consecutive terms.

**Section 9.** In addition to the vacation of office upon expiry of term, a qualified member vacates office upon:

- (1) death;
- (2) resignation;
- (3) being disqualified or being under any prohibition under Section 7;
- (4) being dismissed by the Minister due to being defective, dishonest, misconduct, or incapable.

**Section 10.** The Committee shall have power and duties as follows:

(1) to formulate policies and to set the direction of probation administration according to probation missions and to provide opinions on probation services as requested by the Council of Ministers;

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(2) to provide advice or consultation to the Minister in issuing ministerial regulations, rules, and announcements under this Act and to give advice to the Director-General in issuing the rules under this act;

(3) to provide consultation, opinions and recommendation on the administration and implementation of probation services to the Department of Probation, as well as government agencies, State agencies, and other organizations relevant to probation administration and services;

(4) to set standards of practices for probation officers under this Act and to approve the training curriculum for probation officers;

(5) to perform other duties prescribed by law or assigned by the Minister.

**Section 11.** The provisions on a committee having the power in an administrative process under the law on administrative procedures shall apply mutatis mutandis to the appointment of the qualified members and to the board meeting.

**Section 12.** The Committee may appoint a sub-committee or working group to provide consideration or perform any duties assigned by the Committee. The provision on meeting under Section 11 shall apply mutatis mutandis to meetings of sub-committees or working groups.

**Section 13.** Members of the Committee shall receive meeting allowance or other remuneration as prescribed by the Council of Ministers.

## Chapter 2

### Power and Duties of the Officers

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**Section 14.** Probation Officers shall have the power and duties in accordance with this Act and other laws, and shall especially have power and duties as follows:

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(1) To perform social investigation concerning age, background, behavior, intelligence, education, health, condition of the mind, habit, occupation, environment, nature of the offence, other matters relevant to the person under social investigation, damages, and statement of the victim or other relevant individuals, and to write a report and opinions on capability of self-improvement as well as on appropriate probation measure;

(2) To supervise, follow-up, inquire, give advice to, assist, or admonish probationers to ensure that they comply with probation conditions and improve their behavior for the sake of crime prevention and offender rehabilitation;

(3) To provide welfare under this Act;

(4) To determine the details of the probation conditions as agreed by the probationer for the sake of probation;

(5) To refer a person under social investigation, a probationer, or a person with welfare under section 41 to a physician for physical and psychological examination or refer to any treatment of narcotic abuse, physical or mental deficits or other illness as deemed;

(6) To manage or perform any tasks concerning a person under social investigation or a probationer such as taking a photo, collecting finger-print, physical screening, collecting urine or hair specimen for the sake of identification and being used as the database for the sake of rehabilitation, and to order or provide narcotic testing with a person under social investigation or a probationer with narcotic-related offence or having reasonable evidence to believe that the person abused narcotic. Conducting narcotic testing shall follow the criteria, procedures, and conditions prescribed by ministerial announcements;

(7) To apply electronic devices or other devices in monitoring probationers according to the condition prescribed by the court or competent officers. The criteria and application of devices shall follow ministerial regulations;

(8) To summon a probationer or a person with welfare under Section 41 to attend educational and skill trainings for the sake of rehabilitation and reoffending prevention. The probation officer may also invite the family members of the probationers to attend such training;

(9) To arrange community services or public interest works for probationers;

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(10) In case a person under social investigation, a probationer or a person with welfare under Section 41 is a juvenile, a probation officer shall give advice to the parents, guardians, or a person with whom the juvenile resides concerning parenting, disciplining and other necessary and suitable matters including self-improvement of the parents, guardians, or a person with whom the juvenile resides ;

(11) To assign and oversee volunteer probation officers in order to perform their duties as prescribed by ministerial rules;

(12) To write a report and comment upon the behaviors, occupations and circumstances of probationers;

(13) To report to the authority about the parole or sentence remission under the law on corrections or the law on military prison when a prisoner breaches the condition in order that such authority can take further action;

(14) To perform other duties under this Act, as assigned by the Minister or the Director-General, or pursuant to the court order.

**Section 15.** For the sake of performance under this Act, probation officers shall also be empowered as follows:

(1) In case of extreme necessity, to enter into the dwelling or any places where a person under social investigation or a probationer resides or works or be involved with, and to inquire any person who stays in such place concerning matters specified in Section 14(1) or (2) between sunrise and sunset for the sake of performance;

(2) To summon a person, capable to provide facts concerning matters specified in Section 14 (1) or (2), to appear and give a statement;

(3) To order the owner or the possessor to submit materials or documents that may be used as the evidence concerning the matters specified in Section 14(1) or (2).

**Section 16.** The Department of Probation shall classify a person under social investigation, a probationer, and any individual whom the court or the competent authority

orders to be under the responsibility of a probation officer in order to provide an individualized rehabilitation program, taking into an account of the risk of reoffending.

Criteria, procedures and conditions of classifications under the first paragraph shall follow rules prescribed by the Director-General.

**Section 17.** There shall be volunteer probation officers to assist probation officers as assigned by the Director-General.

The Director-General shall have power to appoint and withdraw a volunteer probation officer.

Qualifications, criteria and procedures of appointing and withdrawal a volunteer probation officer shall be as prescribed by rules of the Committee. As for the practice of volunteer probation officers shall follow rules prescribed by the Minister.

**Section 18.** To perform duties under this Act, a probation officer and a volunteer probation officer shall present the identity card to any person concerned.

The identity card shall be in conformity with the form prescribed by ministerial regulations.

**Section 19.** To perform duties under this Act, a probation officer shall be an official under the Penal Code.

**Section 20.** The Department of Probation shall provide training to probation officers prior to beginning any task so probation officers will have knowledge, capacity and experience. The provided training also includes the training on skills and expertise development. The training curriculum shall be as approved by the Committee.

**Section 21.** A probation officer who has completed the training under Section 20 shall be a position with exceptional reason in accordance with the law on civil service regulation. In determining an extra payment for a position with exceptional reason, the responsibilities and the

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quality of work shall be taken into consideration by comparing with a payment of other officers in the criminal justice system. The payment shall be in line with ministerial regulations approved by the Ministry of Finance.

**Section 22.** In case a victim, a person under social investigation, a probationer, a person with welfare under Section 41 or other person concerned is unable to speak or understand Thai language or local language and there is no interpreter, an interpreter shall be provided.

In case where a victim, a person under social investigation, a probationer, a person with welfare under Section 41 or other person concerned cannot speak, hear or communicate and there is no interpreter, sign language interpreter or an interpreter with other means of communication shall be provided as deemed appropriate.

The Department of Probation shall provide an interpreter under the provision of the first and the second paragraph without delay.

An interpreter shall receive payment, the reimbursement of traveling expenses and accommodation expense according to rules prescribed by the Minister and approved by the Ministry of Finance.

### Chapter 3

#### Investigation, Supervision, and Community Service or Public Service

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**Section 23.** In case where the court or the competent authority orders a probation officer to conduct a social investigation, the responsible person of such agency shall send the order and relevant document to the probation office within three days since the order has been made.

When there will be a parole or sentence remission for prisoners, the Department of Corrections or military prisons shall urgently send the relevant document to the probation office immediately.

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**Section 24.** Unless otherwise ordered by the court or the competent authority, when receiving the order under Section 23, a probation officer shall conduct a social investigation and submit a report and a comment to the court or the competent authority within fifteen days since the day that the probation office receive the order. In case of necessity, the deferral request can be made to the court or the competent authority, but it shall not exceed thirty days.

When receiving the document under the second paragraph of Section 23, a probation officer shall conduct a social investigation and submit a report and a comment within sixty days since the day that the probation office received the document. In case of necessity, the Director-General may extend the period of time, but it shall not exceed thirty days and the Department of Corrections and the military prison shall be notified.

Criteria and procedures of the social investigation shall follow the rules prescribed by the Minister.

**Section 25.** In case where the court or the competent authority issue a probation order, the responsible person of such agency shall send the order and relevant document to the probation office immediately.

A probation officer shall inform a probationer about the probation conditions, the rights of a probationer both verbally and in written, as well as the consequences of compliance and non-compliance.

In case where a probationer under the second paragraph is a juvenile, the parents, guardian, a person with whom the juvenile resides, an individual or organization responsible for the juvenile, or a person requested by the juvenile shall be present while the information is notified.

Criteria, procedures, and conditions on supervision shall follow rules prescribed by the Minister

**Section 26.** A probation officer shall make an individualized supervision plan and rehabilitation plan in order to support behavioral changes of a probationer and reintegration into society. A probationer shall take part in making such plans.

In case where a probationer is a juvenile, the parents, guardian, a person with whom the juvenile resides, an individual or organization responsible for the juvenile, or a person requested by the juvenile shall participate in the plan making, taking into account of a plan and conditions specified by the juvenile and family court.

Criteria, procedures, and conditions on plan under the first paragraph shall follow rules prescribed by the Director-General.

**Section 27.** In case where a probationer fails to comply with conditions set by the court or the competent authority or where supervision circumstances of a probationer have been changed, a probation officer shall examine such situation and handle it as far as possible. If the supervision cannot be continued or the probation condition shall be changed, a probation officer shall submit a report and a comment to the court or the authority immediately.

**Section 28.** A person under social investigation and a probationer shall be assisted and given an advice on living, capacity building, learning, attitude or behavioral modification, narcotic treatment, community service or public service, education, vocational training, occupation, and other assistance as necessary.

**Section 29.** In case where the community service or public service is ordered by the court or the competent authority, a probation officer shall assign a probationer to do community service or public service individually or in a group setting.

Unless otherwise instructed by the court or the competent authority, assigning a probationer to do any community service or public service under the first paragraph, a probation officer shall consider the type of offence, behavior of offender, severity of offence and the specified probation conditions by taking into account of the gender, age, background, behavior, intelligence, health, condition of the mind, habit, occupation, knowledge and capacity of the

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probationer, an appropriateness, convenience, and commuting time to the place holding the community service or public service activity. The assigned activity shall not against tradition, culture, religious belief and other factors concerned.

Criteria, procedures, and conditions of implementing the first and the second paragraph shall follow rules prescribed by the Director-General.

## Chapter 4

### Power of the Court Concerning Probation

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**Section 30.** The court is empowered to order a probation officer to investigate matters of age, past record, behavior, intelligence, education, health, condition of the mind, habit, occupation, environment, nature of the offence, remorse and an attempt to repair the damage, other extenuation circumstance, and other factors relevant to the accused, and then submit the report and comment to the court for consideration in making a judgement or imposing a punishment.

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 defendant to be inquired, or to order the probation officer to proceed with a further social investigation.

**Section 31.** The court may accept the report and comment of the probation officer under Section 30 regardless of the collateral evidences. However, if the court uses such report and comment to the detriment of the accused, the court shall notify such detrimental statement to the defendant. When the defendant raises an objection, the probation officer is entitled to adduce collateral evidence of the report and comment, and the defendant is entitled to adduce counter evidence.

**Section 32.** In case where a probationer fails to comply with probation conditions determined by the court or circumstances concerning the supervision of the probationer has been changed and the probation officer has taken action under Section 27 as well as submitted the report and comment to the court, if such report and comment is detrimental to the probationer, the court shall summon the probationer and notify such detriment. In such case, the probationer is entitled to object and adduce counter evidence, and Section 31 shall be applied mutatis mutandis.

If the probationer refuses to comply with the summon or the undertaking to appear, intends to avoid receiving the summon, has absconded, or is reasonably suspected of intending to abscond, the court is empowered to issue the arrest warrant against the probationer in order to proceed further.

**Section 33.** In case where the application under Section 56 or the statement under Section 57 of the Penal Code are made, the court is empowered to summon a probation officer to be inquired or give a statement in corroboration of such application or statement.

**Section 34.** In case where the court had considered that the probationer had failed to comply with the probation conditions specified by the court, or circumstances concerning supervision of the probationer had been changed, and the court issued the order to modify the judgement or the order concerning the punishment, the court shall notify the probation officer. If the modification of judgement or order causes more detriments to the probationer, the probationer is entitled to appeal such modification order.

The judgement or order of the Appeal Court shall be final.

**Section 35.** In case where any proceedings is not prescribed by this Act, provisions of the Criminal Procedure Code shall be applied mutatis mutandis.

## Chapter 5

### Procedure for Restorative Justice

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**Section 36.** For the sake of probation, a probation office shall have the duty to proceed with restorative justice.

The procedure of restorative justice emphasizes alleviating suffering or resolving the dispute caused by crime by making reparation for the victim and community, raising awareness and holding the offenders accountable for their crime, and allowing the victims, a person under social investigation, probationers, and community members who are affected by the crime to participate in finding the solution.

**Section 37.** During the probation period, when the victim and the person under social investigation or the probationer request for the process of restorative justice and the other party agree, the coordinator under Section 38 shall consider to proceed with restorative justice, taking into account of the impact on the community.

Criteria and procedures of the practice of restorative justice shall follow rules prescribed by the Director-General

**Section 38.** The Director of Probation Office shall appoint a probation officer or an individual to be a coordinator responsible for proceed with restorative justice.

The coordinator shall have the duty to hold the conference, identify the attendees, carry out the conference, and other matters concerning restorative justice.

The coordinator who is not the officer of the Department of Probation and the attendees shall receive remuneration as prescribed by ministerial rules approved by the Ministry of Finance.

**Section 39.** In case where there is an outcome agreement from the restorative justice conference, the probation officer shall propose such agreement to the court or the competent

authority. The court or the competent authority may consider including it as the probation condition, if deemed appropriate.

## Chapter 6

### Welfare

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**Section 40.** By providing welfare under this Chapter, the State shall have the responsibility to investigate, follow up, take care, provide guidance, rehabilitate or implement any activity to the person under Section 41, taking into consideration of needs and interests of such person so that they are able to help themselves and live properly in the community. The agencies related to social development and human security, labor, education, public health and other relevant field shall participate in providing welfare.

In providing welfare under the first paragraph, a probation officer shall support and encourage the individual to receive services in aspect of living, physical and mental health treatment, education and training, life skills activities and other assistances as necessary.

In case where the person is willing to work, a probation officer shall support and encourage such person to attend an activity in order to be prepared for working.

The State shall support and encourage employers or entrepreneurs to hire the person under Section 41 for the sake of life quality support and development in reintegration and recidivism and crime prevention.

Administration, setting standards of welfare, any details related to welfare, criteria, procedures and conditions of providing welfare under this Chapter shall be in accordance with ministerial rules.

**Section 41.** A probation officer shall provide welfare to the following persons:

- (1) A person under social investigation
- (2) A probationer or a person who successfully completed probationary period

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- (3) A person under narcotic assessment, a narcotic addict under rehabilitation, or a person who has successfully completed narcotic rehabilitation
- (4) A person who is serving the community service or public service in lieu of fine
- (5) A released person who completed the prison sentence or is given a royal pardon
- (6) A released juvenile who completed the training set in the judgement
- (7) A released person from the detention in lieu of fine or a person who completed the community service or public service in lieu of fine
- (8) Other persons as specified by ministerial regulations

**Section 42.** To provide welfare under this Chapter, a probation officer may assign a volunteer probation officer or make an agreement with or refer the person to government agencies, local administration organization, non-governmental organization, community organization, and other cooperative agencies.

In case where the person under this Chapter is a juvenile who need welfare or protection, a probation officer shall provide a preliminary assistance and report an official responsible for juvenile welfare protection under the juvenile protection law without delay.

**Section 43.** If deemed appropriate, the Minister is empowered to appoint any place to be a welfare center for the person under Section 41. A probation office shall have the duty to support the operation of the welfare center as appropriate as specified by ministerial rules.

## Chapter 7

### Participation of State Agencies and People Sector

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**Section 44.** The Department of Probation shall have the duty to administer or cooperate with State agencies, local administration organizations, non-governmental organizations, community organizations, and other agencies to develop a network or assist in undertaking the

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missions of the Department of Probation as well as set up the database of offenders to prevent recidivism.

**Section 45.** Volunteer probation officers and people sector shall take part in providing welfare and offender rehabilitation under the supervision of probation officers as prescribed by ministerial rules.

A volunteer probation officer shall receive remuneration as prescribed by ministerial rules approved by the Ministry of Finance.

## Chapter 8

### Penalties

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**Section 46.** Whoever, being an official having duties under this Act and knows or acquires a secret of other person by reason of performing duties, discloses such secret ultra vires in a manner likely to cause damage to other person shall be liable to imprisonment not exceeding five years or a fine not exceeding one hundred thousand Baht, or both.

### Transitory Provision

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**Section 47.** All ministerial regulations issued by virtue of the Proceedings of Probation under the Penal Code Act B.E. 2522 shall remain in full force and effect, insofar as they do not contradict or are in any way inconsistent with this Act, until such time as ministerial regulations, rules, or announcements issued under this Act come into force.

**Section 48.** The probation officers who have been appointed under the Proceedings of Probation under the Penal Code Act B.E. 2522 and are performing their duties before this Act comes into effect shall be the probation officers under this Act.

Countersigned by

General Prayut Chan-o-cha,

Prime Minister

Remark:

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

Whereas probation is an important measure of the criminal justice system and it is considered to be effective and brings peace and order to the society. The Department of Probation is the main agency for implementing probation at pre-trial, trial and post-trial stage. The responsibilities include probation services for juvenile and adult offenders, parolees and the offenders with sentence remission, narcotic assessment and rehabilitation for offenders, community services or public services, restorative justice, welfare, and promoting involvement of State agencies and people sector in crime prevention and offender rehabilitation. In order to increase the effectiveness of probation services, it is therefore necessity to enact this Act.