

(Translation)

Unofficial Translation*

THE ACT ON CONFINEMENT PROCEDURES UNDER THE CRIMINAL CODE
B.E.2506

BHUMIBOL ADULYADEJ, REX.

Given on the 5th Day of November B.E. 2506;
Being the 18th Year of the Present Reign

His Majesty King Bhumibol Adulyadej has the Royal Proclamation to announce that:

Whereas it is expedient to have a law governing confinement procedures under the criminal code.

Therefore, His Majesty the King Bhumibol Adulyadej has graciously been pleased to enact this Act, with the advice and consent of the Constituent Assembly in the capacity of the Parliament, as follows:

Section 1 This Act shall be called the “Act on Confinement Procedures under the Criminal Code B.E. 2506”.

Section 2¹ This Act shall come into force as from the date following the date of its publication in the Government Gazette.

Section 3 In this Act:

“Detainee” means a person detained under a warrant of detention issued by the Court

“Competent Authority” means a person appointed by the Director-General for the execution of this Act.

“Director-General” means the Director-General of the Department of Corrections

“Minister” means the Minister taking charge of this Act.

Section 4 The Minister shall have powers to determine places of confinement and types of places of confinement by means of publication in the Government Gazette.

¹ The Government Gazette, Volume 80 Section 109 Page 709 dated 12th November 1963.

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Section 5 The Director-General shall have powers to appoint the competent authority and to issue rules, regulations and disciplines relating to confinement and procedures for treatment to the detainees under the Criminal Code in the following matters:

- (1) Retention and acquittal
- (2) Visit and contact
- (3) Benefits, compensation and rewards
- (4) Work, education and training
- (5) Health and sanitation
- (6) Methods of detention
- (7) Administration
- (8) Property of the detainees
- (9) Types of personal weapons
- (10) Powers and duties of the competent authority

Section 5/1² It is prohibited to use instruments of restraint with detainees unless:

- (1) There is a circumstance causing danger to life or body of detainees or others
- (2) There is a circumstance or symptom indicating the state of unsound mind which may cause danger to life or body of detainees or others
- (3) Detainees are taken outside places of confinement and there is a circumstance that detainees will escape

Instruments of restraint and the criteria for use thereof under Paragraph 1 shall be in accordance with provisions contained in the Ministerial Regulations by taking account of handicapped detainees; provided that such instruments of restraint must not be chains or other heavier instruments of restraint.

When there is a circumstance under Paragraph 1, the Competent Authority who is the chief of the place of confinement may order to use the instruments of restraint as per the criteria prescribed in the Ministerial Regulations issued under Paragraph 2; provided that the reason or necessity thereof shall be recorded and the use of instruments of restraint shall be revoked when such circumstance has been terminated.

Section 5/2³ To maintain the state security or public order or good morals, the Competent Authority shall have powers to audit letters, documents, parcel posts or other communication media or to intercept telecommunication or any means of communication to or from detainees, thus, in accordance with the regulations prescribed by the Director-General.

The public order under Paragraph 1 shall specifically mean the prevention of danger and maintenance of good order of places of confinement.

² Section 5/1 has been added by the “Act on Confinement Procedures under the Criminal Code (No.2) B.E. 2506”

³ Section 5/2 has been added by the “Act on Confinement Procedures under the Criminal Code (No.2) B.E. 2506”

Section 6 The Competent Authority may use weapons other than firearms to detainees as may be suitable to circumstances, as follows:

- (1) Detainees are escaping or attempting to escape and no other options are available to prevent such escaping or attempted escaping except for the use of weapons
- (2) Detainees caused unrest and disobeyed the Competent Authority's dissuasion
- (3) Detainees assaulted or attempted to assault the Competent Authority or others

Section 7 The Competent Authority may use firearms to detainees as may be suitable to circumstances, as follows:

- (1) Detainees resisted and refused to surrender weapons, in case, there is potential danger and no other options are available to force such detainees to surrender weapons
- (2) At least 3 armed detainees are escaping; and any of them refused to freeze when the Competent Authority ordered them to freeze; and no other options are available to arrest the escaping detainees
- (3) At least 3 detainees caused disturbance and opened or attempted to open, destroyed or attempted to destroy gates, fences or walls of places of confinement
- (4) Armed detainees assaulted or attempted to assault the Competent Authority or others

Section 8 In case of illness of any detainee which may not be recovered if the detainee received medical treatment within the place of confinement, then, the Director-General may allow such detainee to receive medical treatment in any other place under any conditions as the Director-General may think fit.

In case, it is necessary for such detainee to receive an urgent medical treatment, the Competent Authority who is the chief of the place of confinement may allow such detainee to receive medical treatment outside the place of confinement, then, the Competent Authority shall report the matter to the Director-General for consideration and approval.

During the period of receiving a medical treatment in such place, it shall be regarded as the confinement of such detainee within the place of confinement.

Section 8/1⁴ A pregnant detainee must receive proper medical care and assistance and must receive physical check-up from a medical doctor.

Such pregnant detainee must receive pre-natal care at a hospital or a nursing home in the locality where such place of confinement is located; and the birth-giving date of such pregnant detainee shall also be considered and approved as may be necessary; and after the birth-giving, the female detainee who has given birth may stay in such hospital or nursing home for post-natal care for not exceeding seven days as from the birth-giving date. In case, it is necessary for such detainee to receive post-natal care for a longer period of time, an opinion of the attending obstetrician shall be submitted to the Competent Authority who is the chief of the place of confinement for approval; provided that the period of the detainee's stay outside the place of confinement shall be counted as the period of confinement.

⁴ Section 8/1 has been added by the "Act on Confinement Procedures under the Criminal Code (No.2) B.E. 2506"

In case, the period of confinement of a female detainee has expired during such period under Paragraph 2, such female detainee shall be acquitted.

Section 8/2⁵ The place of confinement shall provide health information and nutritional advice to pregnant or breast-feeding detainees and shall also provide enough food in a proper time to such pregnant detainees, infants, children and breast-feeding detainees and shall not obstruct such female detainees from breast-feeding and giving care to their children, unless there is a health reason.

Section 9 In case, there is a circumstance causing danger to life or body of detainees and the Competent Authority is unable to promptly transfer such detainees for confinement in other locations, the Competent Authority may temporarily release such detainees from custody; however, such released detainees must report to the Competent Authority at the location of confinement within twenty-four hours as from the time of acquittal.

Any detainee who is in breach of the provisions contained in Paragraph 1 without any proper reason or excuse shall be imprisoned for not exceeding one year or fined for not exceeding twenty thousand Baht or both.⁶

Section 10⁷ Any person who has taken any of the following actions shall be imprisoned for not exceeding three months or fined for not exceeding five thousand Baht or both.

- (1) Access the place of confinement without permission from the Competent Authority
- (2) Carry and leave money or any forbidden articles as prescribed in the Ministerial Regulations or take any action for any entry or leaving thereof from such place of confinement
- (3) Possess or use money or any forbidden articles as prescribed in the Ministerial Regulations in the place of confinement
- (4) Receive or hand over money or any forbidden articles as prescribed in the Ministerial Regulations from or to detainees

The provisions contained in Paragraph 1 shall not apply to detainees.

In case, the offender is the Competent Authority or government official of the Department of Corrections, he or she shall be double punished.

All money and forbidden articles which are in breach of the provisions contained in this Section shall be confiscated.

⁵ Section 8/2 has been added by the “Act on Confinement Procedures under the Criminal Code (No.2) B.E. 2506”

⁶ Section 9 has been amended by the “Act on Confinement Procedures under the Criminal Code (No.2) B.E. 2506”

⁷ Section 10 has been amended by the “Act on Confinement Procedures under the Criminal Code (No.2) B.E. 2506”

Section 10/1⁸ In case of confinement in lieu of fines of any detainee who has committed a criminal offence which is regarded as petty offence within the place of confinement, the Competent Authority who is the chief of the place of confinement shall have powers to decide and punish such detainee for a breach of discipline and shall give a reason for such decision making.

When such detainee has already received punishment for a breach of discipline, such criminal case shall be settled.

Section 11 The Minister of Justice^{*} shall take charge under this Act and shall have powers to issue Ministerial Regulations for the execution of this Act.

Such Ministerial Regulations shall come into force after their publication in the Government Gazette.

Counter-Signature:

Field Marshal Sarit Thanarat

Prime Minister

⁸ Section 10/1 has been added by the “Act on Confinement Procedures under the Criminal Code (No.2) B.E. 2506”

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Note:- Reason for promulgation of this Act: As it is provided in the Criminal Code that any person who must receive punishment of confinement shall be detained in the place of confinement as prescribed (other than prison); and such detainee must work in accordance with the rules, regulations and disciplines of such place of confinement; whereas, there is no law prescribing procedures relating to such matter, therefore, it is expedient to have a law governing confinement procedures under the criminal code for smooth facilitation of treatment to detainees.

* The Royal Decree on Amendment of Provisions in conformity with the Transfer of Powers and Duties of the Government Agencies shall be in accordance with the Reorganization of Ministries, Bureaus and Departments Act B.E.2545.⁹

Section 104 In the “Act on Confinement Procedures under the Criminal Code B.E. 2506”, the words “Minister of Interior” shall be amended to “Minister of Justice”.

Note:- Reason for promulgation of this Act: Whereas, the Reorganization of Ministries, Bureaus and Departments Act B.E.2545 has provided for establishment of new government agencies with new mission; and whereas, the Royal Decree on Transfer of Business Administration, Powers and Duties of the Government Agencies has been enacted to be in accordance with the Reorganization of Ministries, Bureaus and Departments Act; and since such Act has provided for transfer of powers and duties of government agencies, the Minister taking charge, from former government agency to new government agency; and provisions shall be amended in conformity with the transferred powers and duties; therefore, for compliance with the principles appeared in the said Act and Royal Decree, it is expedient to amend the provisions of laws to be in conformity with the transfer of government agencies so that it shall be clear for all related parties relating to the application of laws without any further review of the laws governing the transfer of powers and duties under any laws whether such mission of the government agency or the responsible person under such law has been transferred to any agency or to any person; and the provisions of laws shall be amended by changing the name of government agency, Minister taking charge or operator of government agency to be in accordance with the transfer of powers and duties and to increase the number of representatives of government agency in the Committee to be in accordance with the mission transferred from the former government agency to new government agency and to delete the former government agency which has been dissolved, which shall be amended in accordance with such Act and Royal Decree; therefore, it is necessary to enact this Act.

The “Act on Confinement Procedures under the Criminal Code (No.2) B.E. 2559”¹⁰

Section 2 This Act shall come into force as from the date following the date of its publication in the Government Gazette.

⁹ The Government Gazette, Volume 119 Section 102 Page 66 dated 8th October 2002.

¹⁰ The Government Gazette, Volume 133 Section 6(A) Page 1 dated 18th January 2016.

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Section 8 All Ministerial Regulations, rules, regulations or orders issued in accordance with the “Act on Confinement Procedures under the Criminal Code B.E. 2506” which has been enforced prior to the date when this Act shall come into force, shall still be enforced insofar as they are not contrary to or inconsistent with this Act until the new Ministerial Regulations, rules, regulations or orders issued in accordance with the “Act on Confinement Procedures under the Criminal Code B.E. 2506” as amended by this Act shall come into force.

Section 19 The Minister of Justice shall take charge of this Act.

Office of Justice Affairs

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Amended by: Parinsinee

Checked by: Wasin

29th July 2010

Revised by: Napaporn

19th November 2013

Checked by: Nattaporn

22nd November 2013

Added by: Vichapong

19th January 2016

Office of Justice Affairs

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