

Regulations on Observation and Compulsory Abstention

※ Sources of Law for Observation and Prosecution of Abstention

Pursuant to article 10 in the “Narcotic Hazard Prevention Act”: “Persons convicted of using Category one narcotics shall be punished with a minimum six-month to a maximum five-year fixed-term imprisonment. Persons convicted of using Category two narcotics shall be punished with a maximum three-year fixed-term imprisonment.” In addition, pursuant to article 20, “The prosecutor should petition a court to adjudicate or the juvenile court (juvenile court of a district court) should first adjudicate for persons convicted of the offenses described in Article 10 and then the accused or the juvenile offender be ordered to go into a rehabilitation center for **observation or rehabilitation for a period of no longer than two months**. After the observation and rehabilitation, the prosecutor or the Juvenile Court (juvenile court of a district court) should release the offender immediately and should enter the judgment of non-prosecution or not to try the case, if the report from the rehabilitation center confirms that the person undergoing observation and rehabilitation exhibits no signs of continuing using narcotics. If the person undergoing observation and rehabilitation exhibits the tendencies of continuing to use narcotics, the prosecutor should petition the court to order, or the juvenile court (juvenile court of a district court) should issue the order, **for the offender to receive a compulsory rehabilitation program at a rehabilitation center for more than six months until there is no need for a compulsory rehabilitation. However, the longest duration shall not exceed one year**. Pursuant to the previous provision, those who were release from rehabilitation commit crime mentioned in Article 10 in five years apply the first two rulings in the Article. (People who recommit in five year, instead of receiving rehabilitation treatment, they will be sentenced directly)

※ On “Act of Execution of Rehabilitation Treatment”:

★ Provisions concerning goods to be delivered in

Pursuant to article 11 in “Act of Execution of Rehabilitation Treatment”: “Types and quantities of essential items sent to delinquents should be strictly limited. No outside food or beverage may be provided to delinquents.”

★ Provisions concerning interview and correspondence

Pursuant to article 12 in “Act of Execution of Rehabilitation Treatment”: “A delinquent in an observation or drug abstention may correspond with and receive visits of **his/her spouse and lineal relatives only**. Any exception needs to be approved by the officials of the drug abstention and rehabilitation center upon requests. However, the drug

abstention and rehabilitation center may restrict or prohibit such privilege if the mails or visits impede the implementation of the rehabilitation measures or have adverse effects on the benefits of the delinquent (paragraph 1).

Pursuant to the preceding paragraph, the visitation privilege of a delinquent shall have a maximum frequency of **one visit per week for a maximum duration of thirty minutes**. However, where circumstances require and upon the approval of the officials of the drug abstention and rehabilitation center, frequency or duration of visits may be extended (paragraph 2). The drug abstention and rehabilitation center shall read and inspect all correspondences for and from the delinquents receiving rehabilitation. Where a suspicion of any of the circumstances stated in the proviso of paragraph 1 is noted, and the sender is a delinquent receiving rehabilitation, he/she shall be asked to present underlying reasons for such statements and thereafter ordered to remove said statements; thereafter correspondence may be sent. Where the recipient is a delinquent receiving rehabilitation, the sender shall be asked to present underlying reasons for such statements and ordered to remove said statements; thereafter correspondence may be handed or delivered to the delinquents.”

A delinquent is only allowed to receive visits from his/her spouse, parents, and children. Other visits from: siblings, grandparents, parents’ siblings, or friends are not permitted.

★Concerning enforcement period

Pursuant to article 20 in “Narcotic Hazard Prevention Act”: “The prosecutor should petition a court to adjudicate or the juvenile court (juvenile court of a district court) should first adjudicate for persons convicted of the offenses described in Article 10 and then the accused or the juvenile offender be ordered to **go into a rehabilitation center for observation or rehabilitation for a period of no longer than two months**. (paragraph 1). After the observation and rehabilitation, the prosecutor or the juvenile court (juvenile court of a district court) should release the offender immediately and should enter the judgment of non-prosecution or not to try the case, if the report from the rehabilitation center confirms that the person undergoing observation and rehabilitation exhibits no signs of continuing using narcotics (paragraph 2).

Pursuant to paragraph 2 of article 8 in “Act of Execution of Rehabilitation Treatment”: “Delinquents taking the rehabilitation measures no longer have the tendency of drug abuse shall be released through the orders or judgments from respective prosecutors or juvenile courts; should such delinquents not receive release orders from prosecutors, the abstention and rehabilitation center shall inform prosecutors and juvenile courts, and release delinquents. Where a delinquent has an ongoing tendency of drug abuse, before the prosecutor files a motion for compulsory treatments at a rehabilitation

center, a delinquent should be kept in detention. Such detention period is calculated into his/her total duration of rehabilitation treatments.”

※ Regulations of “Act of Execution of Drug Abuser Treatment”

★ Stages and Targets during Drug Abuser Treatments

Pursuant to paragraph 2 of article 11 in “Act of Execution of Drug Abuser Treatment,” the drug abuse treatments shall be conducted in three stages in the following order: **adjustment period, psychological counseling period, social adaptation period.**

Pursuant to article 12: “The primary purpose of the adjustment period is to enable the illicit drug abusers under treatments to develop their stamina and perseverance, thereby enhancing their confidence in eliminating drug dependency.” Pursuant to article 13: “The primary purpose of the psychological counseling period is to stimulate the illicit drug abusers’ motivation of eliminating drug dependency and starting new lives, thereby assisting them in exterminating their psychological dependency on illicit substances.” Pursuant to article 14: “The primary purpose of the social adaptation period is to rebuild the illicit drug abusers’ interpersonal skills and problem-solving abilities, thereby helping them re-establish new lives in the society.”

★ Provisions concerning goods to be delivered in

Pursuant to article 21 in “Act of Execution of Drug Abuser Treatment”: “types and quantities of essential items sent to the illicit drug abusers under treatments should be strictly limited (paragraph 1). **No outside food or beverage may be provided to illicit drug abusers under treatments.** However, during the following special occasions, the provision of outside food or beverage is considered essential and accepted pursuant to the preceding paragraph: 1. the Chinese New Year’s Eve and first five days of the Chinese lunar calendar. 2. January 1 and 2, Mother’s Day, Dragon Boat Festival, Father’s Day, and Mid-Autumn Festival (paragraph 2). The regulations governing the types and quantities of the essential items, food, and beverage provided in the preceding two paragraphs are subject to the discretion of the Ministry of Justice (paragraph 3).

★ Provisions concerning interview and correspondence

Pursuant to article 22 in “Act of Execution of Drug Abuser Treatment”: “An illicit drug abuser under treatments may correspond with and receive visits from next of kin and close relatives. During the psychological counseling period, an illicit drug abuser under treatment may correspond with and receive visits from relatives and non-relatives where such correspondences or visits are deemed beneficial to the enforcement of the drug abuse treatments; such correspondences or visits shall be authorized and approved by the drug abuser treatment center director. **Pursuant to the first paragraph,**

the visitation privilege of a delinquent shall have a maximum frequency of one visit per week for a maximum duration of thirty minutes. However, where circumstances require and upon the approval of the officials of the drug abstention and rehabilitation center, frequency or duration of visits may be extended.”

In addition, where suspicion of any of the circumstances stated in paragraph 2 (see footnote) is noted, and the sender is an illicit drug abuser under treatments, he/she shall be asked to present underlying reasons for such statements and thereafter ordered to remove said statements; thereafter correspondence may be posted. Where the recipient is an illicit drug abuser under treatments, the sender shall be asked to present underlying reasons for such statements and ordered to remove said statements; thereafter correspondence may be handed or delivered to him/her.

Footnote: pursuant to subparagraph 2, paragraph 2 of article 22 in “Act of Execution of Drug Abuser Treatment”: “codes, ciphers, and other secret methods are used making understanding or inspection impossible.”

★Duration of the compulsory abstention

Pursuant to paragraph 2 of article 20 in the “Narcotic Hazard Prevention Act”: “.....If the person undergoing observation and rehabilitation exhibits the tendencies of continuing to use narcotics, the prosecutor should petition the court to order, or the juvenile court (a juvenile division of the district court) should issue the order, for the offender to receive **a compulsory rehabilitation program at a rehabilitation center for more than six months until the need for a compulsory rehabilitation ceases. The duration shall not exceed 1 year.**

Pursuant to article 25 in “Act of Execution of Drug Abuser Treatment”: “Upon fulfillment of six months of drug rehabilitation treatments and the assessment conducted on the narcotics abuser as herein provided in Article 17 finds mandatory drug abuse treatments is no longer necessary, the drug abuser treatment center may, at any time it deems appropriate, present substantiating documents to the prosecutor, court or juvenile court (a juvenile division of the district court) under which treatment order is enforced for the issuance of a court order or ruling for the termination of drug abuse treatments. The release may be processed thereafter.” Pursuant to article 27 in “Act of Execution of Drug Abuser Treatment”: “an illicit drug abuser under treatment, upon fulfillment of drug abuse treatments, should be released before noon of the following day.”

✂ Fees and payment options for observation and compulsory abstention

The Ministry of Justice has set out a specific fee standard and calculation formula for observation and compulsory abstention; the formula applies to all and does not charge differently based on individual circumstances (as with the National Health Insurance, people may not be sick, but still pay premiums regardless). Moreover, after an inmate completes observation or compulsory abstention, the fees will be calculated based on the formula set out by the Ministry of Justice and the duration; when an inmate is discharged or transferred to another facility, a payment notice will be handed to him/her or his/her legal guardian to sign.

★Fees incurred during observation abstention

Pursuant to article 30 in the “Narcotic Hazard Prevention Act,” and “Working Guidelines for Rehabilitation Fees and Payments incurred at Rehabilitation Institutes, Detention Centers and Juvenile Detention Houses, Agency of Corrections, Ministry of Justice.”

Applicable fees are as follows: (currency: NTD)

1	Meals	Per adult per day	\$67
		Per juvenile per day	\$84
2	Medication	Per person per day	\$33
3	Urine test fee	Per person per test	\$200
4	Medical consultation	Per person per day	\$40
5	The miscellaneous fee incurred at a rehabilitation facility, based on individual circumstances of inmates undergoing observation abstention: fees are calculated and based on actual expenses individually.		

★Fees incurred during compulsory abstention

Pursuant to article 30 in the “Narcotic Hazard Prevention Act,” and “Working Guidelines for Rehabilitation Fees and Payments incurred at Rehabilitation Institutes, Detention Centers and Juvenile Detention Houses, Agency of Corrections, Ministry of Justice.”

Applicable fees are as follows: (currency: NTD)

1	Meals	Per person per day	\$67
2	Hourly tuition	Per person per day	\$30
3	Learning materials and books	Per person per day	\$6
4	Medication	Per person per day	\$10
5	Urine test fee	Per person per test	\$200

Should an inmate participate in vocational skill training courses, a training material fee is applicable (\$11 per person per day). These fees will be deducted from an inmate's custody bond or labor income; total fees will be finalized on the day an inmate is discharged from the facility. The residual balance and due date will be specified in the payment notice, an inmate should make a payment before the due date at the rehabilitation facility or should transfer funds to the facility's post office bank account. Overdue payment will be enforced by a relevant Administrative Enforcement Agency, Ministry of Justice.

★Fee exemptions for observation and compulsory abstention

Pursuant to paragraph 1 of article 30 in "Narcotic Hazard Prevention Act": "fees incurred from the observation, rehabilitation, and compulsory rehabilitation program shall be collected from the person receiving observation, rehabilitation, or compulsory abstention, or the legal guardian of the youth receiving such punishment with the invoice issued by the rehabilitation center or the drug abuse treatment center, and the reimbursement shall be sent to the national treasury. **However, persons who surrender voluntarily or who are in poverty are exempt from the payments.**

★Procedures to apply for fee exemptions for abstention and rehabilitation: exemptions will be processed pursuant to "Working Guidelines for Observation and Compulsory Abstention Fees and Payments incurred at the Kaohsiung Drug Abuser Treatment Center, Agency of Corrections, Ministry of Justice"

1. Persons live in poverty:

If a person who undergoes observation abstention (including a juvenile under observation abstention) or rehabilitation treatments lives in poverty, he/she can apply for a fee exemption. When an application is submitted, a low-income family certificate (issued by a local township/city/district office pursuant to low-income family guidelines in Public Assistance Act) must be provided by an inmate or his/her family member (to prove they are from the same low-income household). An exemption application must be submitted within a reasonable time frame (namely, during an abstention and treatment, before a due date set out by a rehabilitation and treatment facility, or by a relevant Administrative Enforcement Agency). (Please note: **a low-income certificate issued by a chief of a neighborhood or village does not suffice the requirement for an exemption.**)

2. Persons who surrender voluntarily:

Persons who surrender voluntarily to a police station, a prosecutor's office, or a court, and has made a statement in a court criminal verdict, an execution command for observation abstention or rehabilitation penalty, or an official

police record, is eligible to submit substantiating documents to apply for an exemption for abstention or rehabilitation treatment fees.

3. Abstention or rehabilitation penalty withdrawal:

When an observation abstention or rehabilitation treatment penalty is withdrawn by a court, and such a withdrawal is recorded in a court criminal verdict and an execution command for observation abstention or rehabilitation penalty, a person is eligible to submit substantiating documents to apply for an exemption for abstention or rehabilitation treatment fees.

4. Death:

When a person who undergoes an observation abstention or a rehabilitation treatment passes away, and substantiating documents are available, fees incurred will be waived. However, should a person who undergoes observation abstention is a juvenile, his/her legal guardian is still liable for the fees incurred.

5. The aforementioned exemptions must be processed by the custodian of the general affair section, then signed by the chief of the general affair section and approved by the director of the facility. The accounting office must keep copies of all substantiating documents, and exemptions are marked as write-offs in the revenue.