

# MEDICAL TREATMENT AND CUSTODY ACT

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Act No. 7655, Aug. 4, 2005

## CHAPTER I GENERAL PROVISIONS

### Article 1 (Purpose)

The purpose of this Act is to provide for means to prevent recommitment and facilitate the return to the society of those who have committed any offense in the state of mental handicap or narcotic, alcohol or other drug addiction and are considered to present a danger of recidivism and need special training, rehabilitation and treatment, by placing them under proper protection and treatment.

### Article 2 (Persons Subject to Medical Treatment and Custody)

(1) The term "person subject to medical treatment and custody" in this Act shall be the one who is deemed to need medical treatment at a medical treatment and custody facility and have a danger of recidivism, falling under any one of the following subparagraphs:

1. A mentally handicapped person who is not punishable under Article 10 (1) of the Criminal Act or is eligible for remittal in penalty as provided for in Article 10 (2) of the Criminal Act and has committed an offense punishable by imprisonment without prison labor or a heavier penalty; and
2. A person who has the habit of or is addicted to drinking, taking, inhaling, smoking, or injecting narcotics, psychotropic drugs, marijuana, alcohol or other materials which are likely to present a danger of abuse or harmful effect and has committed an offense punishable by imprisonment without prison labor or a heavier penalty.

(2) Details of "materials which are likely to present a danger of abuse or harmful effect" described in paragraph (1) 2 shall be prescribed by the Presidential Decree.

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### Article 3 (Jurisdiction)

(1) The territorial jurisdiction for a medical treatment and custody case shall be the same as that for the criminal charge which are being tried or could have been tried concurrently with the medical treatment and custody case.

(2) The first trial jurisdiction for a medical treatment and custody case shall belong to the collegiate division of a district court or of the branch court. If the jurisdiction for the medical treatment and custody case of a person for whom the medical treatment and custody is applied (hereinafter referred to as a "subject for whom medical treatment and custody is applied") is different from that for the criminal trial of the same subject, the former shall prevail.

## CHAPTER II PROCEDURES, ETC. FOR MEDICAL TREATMENT AND CUSTODY CASES

### Article 4 (Medical Treatment and Custody Application by Public Prosecutor)

(1) A public prosecutor may make an application to the competent court for placing a person subject to medical treatment and custody under medical treatment and custody if necessary.

(2) In applying for placing a person subject to medical treatment and custody under medical treatment and custody, the public prosecutor concerned shall refer to a diagnosis or psychiatric test of such a medical specialist as a psychiatrist.

(3) A medical treatment and custody application shall be made by a public prosecutor by filing a written application with the competent court. Copies of the medical treatment and custody application equal in number to that of the subjects for whom medical treatment and custody is applied, shall be attached to the medical treatment and custody application.

(4) The following matters shall be described on a medical treatment and custody application:

1. Name of the subject for whom medical treatment and custody is applied and other descriptions to identify the subject;

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2. Grounds for the application;
  3. Applicable legal provisions; and
  4. Other matters provided by the Presidential Decree.
- (5) The public prosecutor may apply for medical treatment and custody of a person at any time before the appellate trial court closes argument in a prosecuted case against him.
- (6) The court which received a medical treatment and custody application shall without delay serve the subject for whom medical treatment and custody is applied or his attorney with a copy of the application: *Provided*, That the service shall be not later than 5 days before the first date of trial when the medical treatment and custody application is filed together with a public prosecution and not later than 5 days before the date of the next trial when the medical treatment and custody application is filed during the trial of a prosecuted case.
- (7) The court may request the public prosecutor concerned to file a medical treatment and custody application when it considers it necessary to sentence a person to medical treatment and custody in view of the materials presented at the trial of a prosecuted case against him.

### Article 5 (Investigation)

- (1) A public prosecutor shall investigate the materials relevant in making a medical treatment and custody application while investigating a crime, when it is considered reasonably likely that the suspect should be subject to medical treatment and custody in view of his criminal record or mental illness, etc.
- (2) A judicial police officer (including a special judicial police officer; hereinafter the same shall apply) shall conduct the investigation as prescribed in paragraph (1) under the direction of a public prosecutor.

### Article 6 (Medical Treatment and Custody Warrant)

- (1) A public prosecutor may place a person subject to medical treatment and custody under protective detention (including protective confinement and protective arrest; hereinafter the same shall apply) with a medical treatment and custody warrant applied for by the public prosecutor and issued by a competent district court judge when it is considered necessary that the said person should be placed under medical treatment and custody and the said person falls under any one of the following subparagraphs:

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1. When he has no established address;
2. When there is a danger that he may destroy evidence in the case under investigation; or
3. When he escapes or presents a danger of escape.

(2) A judicial police officer may place under protective detention a person subject to medical treatment and custody who falls under paragraph (1) with a medical treatment and custody warrant applied for by a public prosecutor upon request of the judicial police officer and issued by a competent district court judge.

(3) Articles 201 (2) through (4), 201-2 through 205, 208, 209, and 214-2 through 214-4 of the Criminal Procedure Act shall apply *mutatis mutandis* with respect to the protective detention as prescribed in paragraphs (1) and (2).

### Article 7 (Independent Medical Treatment and Custody Application)

A public prosecutor may request a medical treatment and custody application only, without instituting a public prosecution, when:

1. A suspect is not punishable because the person falls under Article 10 (1) of the Criminal Act;
2. An accusation or a complaint concerning an offense for which such an accusation or complaint is required for filing prosecution does not exist or is cancelled, or the victim expressed his wish not to prosecute the offender or retracted his previous wish to prosecute the offender for an offense which cannot be prosecuted against the expressed wish of the victim; or
3. The public prosecutor decides not to prosecute a suspect under Article 247 (1) of the Criminal Procedure Act.

### Article 8 (Application for Medical Treatment and Custody and Effect of Warrant of Detention)

When a public prosecutor decides not to institute a public prosecution against a suspect detained under a warrant of detention and files a medical treatment and custody application only, the warrant of detention shall continue to have effect as a medical treatment and custody warrant.

### Article 9 (Absence of Subject for Whom Medical Treatment and Custody is Applied)

When a subject for whom medical treatment and custody is applied is not able to be present at the trial due to mental disorder as prescribed

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in Article 10 (1) of the Criminal Act, the court may hold the trial without his presence.

### Article 10 (Transfer to Criminal Trial Process)

(1) When there is found clear evidence that a subject for whom medical treatment and custody is applied has no mental disorder as provided for in Article 10 (1) of the Criminal Act after commencement of trial for the medical treatment and custody case in accordance with subparagraph 1 of Article 7, the court shall transfer the case to a criminal trial process under the Criminal Procedure Act at the request of a public prosecutor.

(2) When a case is transferred to a criminal trial process under paragraph (1), public prosecution shall be considered to have been instituted at the time when the medical treatment and custody application was filed. In this case, the medical treatment and custody application shall have the same effect as an indictment; and any hearing taken before the transfer to the trial process shall be deemed the one taken during the trial process. Matters to be entered in an indictment may be changed in accordance with the procedures provided for in Article 298 of the Criminal Procedure Act.

(3) When a medical treatment and custody application is filed after a request for a summary order is made, the latter shall be tried according to the formal trial procedure thereafter.

### Article 11 (Informing of Contents of Trial)

When a trial procedure is commenced pursuant to Article 10, the contents of trial, the proceedings of which are taken without presence of the subject concerned, shall be informed to him by reading the protocol of trial or by other appropriate means.

### Article 12 (Decision of Medical Treatment and Custody, etc.)

(1) When a court finds, after the hearing, that a medical treatment and custody application has sufficient grounds, it shall issue a sentence to medical treatment and custody in the form of a judgment. The medical treatment and custody application shall be dismissed in the form of a judgment either when the application is found to be without sufficient grounds or when the subject for whom medical treatment and custody is applied is declared not guilty on grounds other than insanity or is sentenced to death penalty in the accused case.

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(2) The judgment on a medical treatment and custody case and the judgment on an accused case for the same offense shall be sentenced simultaneously: *Provided*, That this shall not apply when the medical treatment and custody application falls under Article 7.

(3) The reasons for a decision issuing a sentence to medical treatment and custody shall specify the facts which satisfy the requirements of the sentence, the abstracts of the evidence and applicable provisions.

(4) When an accused case falls under any of the conditions provided for in each subparagraph of Article 326, subparagraphs 1 through 4 of Article 327, and each subparagraph (except the latter part of subparagraph 2) of Article 328 (1) of the Criminal Procedure Act, the court shall dismiss the medical treatment and custody application as well in the form of a judgment or decision. The same shall also apply to medical treatment and custody applications meeting the above conditions.

### Article 13 (Diagnosis and Psychiatric Test by Medical Specialist)

When a court finds it hard to decide on whether or not a subject for whom medical treatment and custody is applied is in mental disorder only with a diagnosis or psychiatric test of such a medical specialist as a psychiatrist under Article 4 (2), it may order such a psychiatrist, etc. to conduct such diagnosis or test again.

### Article 14 (Appeal, etc.)

(1) A public prosecutor, a subject for whom medical treatment and custody is applied or any person provided for in Articles 339 through 341 of the Criminal Procedure Act may file an appeal according to the procedures prescribed in the Criminal Procedure Act.

(2) When an appeal or a waiver or withdrawal thereof is filed concerning a judgment on an accused case, the same appeal or waiver or withdrawal thereof shall be considered to have been filed in regard to a judgment on the medical treatment and custody application case as well. The same shall also apply to cases of a recovery of right of appeal, an application for retrial, or an extraordinary appeal.

### Article 15 (Provisions Applicable *Mutatis Mutandis*)

(1) Article 6 (1) shall apply *mutatis mutandis* to the cases of protective detention by the court of a subject for whom medical treatment and custody is applied.

(2) Articles 282 and 283 of the Criminal Procedure Act shall apply *mutatis*

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*mutandis* to medical treatment and custody application cases for persons prescribed in Article 2 (1) 1.

### CHAPTER III EXECUTION OF MEDICAL TREATMENT AND CUSTODY

Article 16 (Treatment of Medical Treatment and Custody Subject)

(1) Any person sentenced to medical treatment and custody (hereinafter referred to as the "medical treatment and custody subject") shall be subject to commitment to a medical treatment and custody facility for placing him under medical care.

(2) Commitment to a medical treatment and custody facility shall not exceed fifteen years: *Provided*, That commitment of a medical treatment and custody subject to a medical treatment and custody facility under Article 2 (1) 2 shall not exceed two years.

(3) Medical treatment and custody facilities and medical care as prescribed in paragraph (1) and other necessary matters shall be prescribed by the Presidential Decree.

Article 17 (Direction of Execution)

(1) A public prosecutor shall direct the execution of a medical treatment and custody.

(2) The direction under paragraph (1) shall be conducted in writing accompanied by an official copy of the judgment concerned.

Article 18 (Order and Method of Execution)

The medical treatment and custody shall be executed first when a penal sentence is adjudged concurrently with the medical treatment and custody. In this case, the period of medical treatment and custody shall be counted in to the period of penalty.

Article 19 (Separate Confinement)

The persons subject to medical treatment and custody referred to in Article 2 (1) 1 shall be confined separately from the persons subject to medical treatment and custody provided for in Article 2 (1) 2 unless there are any special circumstances to the contrary.

Article 20 (Disclosure of Contents, etc. of Medical Treatment and Custody)

Details and actual state of execution of medical treatment and custody under this Act shall be disclosed under the conditions as prescribed by

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the Presidential Decree. In this case, personal information on a medical treatment and custody subject shall not be disclosed without obtaining a consent thereto from such medical treatment and custody subject or his guardian.

### Article 21 (Summons and Execution of Medical Treatment and Custody)

(1) A public prosecutor may, to execute medical treatment and custody, summon the medical treatment and custody subject concerned who is not under protective confinement.

(2) When a medical treatment and custody subject does not accede to the summons under paragraph (1), the public prosecutor may place the subject under protective arrest by issuing a medical treatment and custody execution warrant.

(3) When a medical treatment and custody subject escapes or presents a danger of escape, or his present location is not identified, the public prosecutor may place the subject under protective arrest by issuing a medical treatment and custody execution warrant without first issuing a summons, notwithstanding the provisions of paragraph (2).

(4) A medical treatment and custody execution warrant shall have the same effect as a medical treatment and custody warrant.

### Article 22 (Review and Decision of Provisional Termination, etc. of Medical Treatment and Custody)

The Medical Treatment and Custody Deliberation Committee under Article 37 shall determine after review whether the execution of medical treatment and custody should be provisionally or permanently terminated every six months after commencement of such execution for each medical treatment and custody subject, and whether the execution of medical treatment and custody or entrustment for treatment should be terminated every six months after provisional termination of execution, or entrustment for treatment, for each medical treatment and custody subject placed under such provisional termination or entrustment for treatment.

### Article 23 (Entrustment for Treatment)

(1) The Medical Treatment and Custody Deliberation Committee under Article 37 may entrust a medical treatment and custody subject, who is sentenced only to medical treatment and custody, to his legal guardian, spouse, lineal relative, brother or sister (hereinafter referred to as the



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"legal guardian, etc.") for treatment outside the medical treatment and custody facility for a reasonable period of time designated when one year has passed after the commencement of the execution of the medical treatment and custody.

(2) When a medical treatment and custody subject has concurrently been sentenced to a criminal penalty and has completed a period of medical treatment and custody equivalent to that of the penal sentence, the Medical Treatment and Custody Deliberation Committee under Article 37 may entrust him to his legal guardian, etc. for a reasonable period of time designated for treatment outside the medical treatment and custody facility.

(3) When the Medical Treatment and Custody Deliberation Committee decides to entrust a medical treatment and custody subject to his legal guardian, etc. for treatment under paragraph (1) or (2), it shall receive an acknowledgement from the legal guardian, etc. guaranteeing hospitalization or treatment outside the medical treatment and custody facility.

### Article 24 (Suspension of Execution of Medical Treatment and Custody)

When a medical treatment and custody subject has a ground which falls under any of subparagraphs of Article 471 (1) of the Criminal Procedure Act, a public prosecutor may suspend the execution of medical treatment and custody in accordance with the provisions of the same Article. In this case, the supervision of the subject with respect to whom the execution of medical treatment and custody has been suspended shall be conducted according to the rules provided for the supervision of a person with respect to whom the execution of a criminal penalty has been suspended.

## CHAPTER IV TREATMENT AND RIGHTS OF MEDICAL TREATMENT AND CUSTODY SUBJECTS

### Article 25 (Treatment)

(1) The head of a medical treatment and custody facility shall equip itself with comfortable and sanitary facilities necessary to guarantee the healthy life of the medical treatment and custody subjects and provide them with clothes, bedclothes and other necessities of life.

(2) Medical treatment for medical treatment and custody subjects shall

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be given subject to the prescription of such a doctor as a psychiatrist.

(3) The head of a medical treatment and custody facility shall take measures necessary to facilitate the return to the society of the medical treatment and custody subjects such as placing them in more open and relaxed environment according to the stages of medical treatment and recovery.

### Article 26 (Interviews, etc.)

The head of a medical treatment and custody facility shall give the medical treatment and custody subjects the rights to interview, correspondence, telephone communication, etc., except as necessary for maintaining the order of the facility or providing medical treatment.

### Article 27 (Watching Television, etc.)

Medical treatment and custody subjects shall be guaranteed the rights to watch television, listen to the radio and read newspapers or books at any time except during working hours, bedtime, etc.

### Article 28 (Medical Treatment of Patients)

(1) The head of a medical treatment and custody facility may permit a medical treatment and custody subject to be provided with medical treatment at an outside medical institution when he has been found to have a disease hard to cure at the medical treatment and custody facility.

(2) In the case of paragraph (1), if the medical treatment and custody subject wishes to receive medical treatment at his own expense or his guardian, etc. want the subject treated at their own expense, the head of the medical treatment and custody facility may permit it.

### Article 29 (Payment of Labor Compensation, etc.)

Labor compensation shall be provided to a medical treatment and custody subject engaging in work under the conditions prescribed by the Minister of Justice to enhance his will to work and support his social settlement after release.

### Article 30 (Petition for Better Treatment)

(1) A medical treatment and custody subject or his legal guardian, etc. may make a petition to the Minister of Justice for improving the treatment of the subject.

(2) The filing and examination of a petition under paragraph (1) and other necessary matters shall be prescribed by the Presidential Decree.

### Article 31 (Check of Operational Situation, etc.)

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The Minister of Justice shall check the operational situation of medical treatment and custody facilities and the conditions of treating medical treatment and custody subjects at least twice per year.

### CHAPTER V PROBATION

#### Article 32 (Probation)

(1) A medical treatment and custody subject shall be placed under probation, when he falls under either of the following subparagraphs:

1. When the execution of medical treatment and custody is provisionally terminated; or
2. When the medical treatment and custody subject is entrusted to his legal guardian, etc. for treatment outside the medical treatment and custody facility.

(2) The period of probation shall be three years.

(3) When a person subject to probation (hereinafter referred to as the "probationer") falls under any of the following subparagraphs, the probation shall be terminated:

1. When the period of probation expires;
2. When the Medical Treatment and Custody Deliberation Committee decides to terminate the medical treatment and custody, even before the expiration of the period of probation; or
3. When the probationer is recommitted as a subject of medical treatment and custody or has to serve imprisonment without prison labor or a heavier penalty for committing any other crime, even before the expiration of the period of probation.

#### Article 33 (Matters to be Observed by Probationer)

(1) A probationer shall faithfully fulfill the requirements pursuant to Article 32 (2) of the Protection and Surveillance, etc. Act.

(2) The Medical Treatment and Custody Deliberation Committee may provide for other additional requirements, including medical treatment, than those provided for in paragraph (1) with consideration of the characteristics of the probationer.

#### Article 34 (Duty of Probationer, etc. to Report)

(1) A probationer or his legal guardian, etc. shall file in advance a report to the head of the medical treatment and custody facility giving his ex-

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pected address after release and other necessary matters, in accordance with the Presidential Decree.

(2) The probationer or his legal guardian, etc. shall file, within 10 days after release, a written report to the protective supervisor giving the address, occupation, and hospital where he is receiving medical treatment and other necessary matters.

Article 35 (Termination of Medical Treatment and Custody)

(1) The execution of medical treatment and custody shall be terminated at expiration of the period of probation.

(2) The Medical Treatment and Custody Deliberation Committee under Article 37 may terminate by its decision the execution of probation before the expiration of the period of probation when the performance record and treatment status of the probationer concerned are good.

Article 36 (Cancellation of Provisional Termination and Re-execution of Medical Treatment and Custody)

The Medical Treatment and Custody Deliberation Committee under Article 37 may by its decision cancel provisional termination or entrustment for outside treatment and execute medical treatment and custody again when the probationer concerned falls under any of the following subparagraphs:

1. When he has committed an offense punishable by imprisonment without prison labor or a heavier penalty: *Provided*, That this shall exclude any person who has committed an offense by negligence;
2. When he has violated the matters to be observed in accordance with Article 33 or other directions or supervision concerning the probation; or
3. When the condition of the probationer prescribed in Article 32 (1) 1 gets worse to require medical treatment and custody.

## CHAPTER VI MEDICAL TREATMENT AND CUSTODY DELIBERATION COMMITTEE

Article 37 (Medical Treatment and Custody Deliberation Committee)

(1) The Medical Treatment and Custody Deliberation Committee (hereinafter referred to as the "Committee") shall be established in the Ministry

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of Justice and be responsible for review of and decision on matters related to the administration and execution of medical treatment and custody and probation.

(2) The Committee shall be composed of not more than six persons who have qualifications as a judge, public prosecutor, or attorney-at-law, and not more than three persons who have qualifications as such a medical specialist as a psychiatrist. The Vice Minister of Justice shall be the chairman of the Committee.

(3) The Committee shall review and decide matters falling under the following subparagraphs:

1. Matters concerning entrustment of a medical treatment and custody subject for treatment, provisional termination of medical treatment and custody and cancellation thereof, and termination of medical treatment and custody;
2. Matters concerning imposition of requirements and issuance of instructions or supervision to be observed by a probationer, and sanction to be imposed in case of violation thereof; and
3. Other matters related to those prescribed in subparagraphs 1 and 2.

(4) The Committee may have advisory members who have expert knowledge and social reputation. Such advisory members shall be commissioned by the Minister of Justice upon recommendation by the chairman of the Committee.

(5) The composition, operation, administration of the Committee, commission of advisory members and other necessary matters shall be determined by the Presidential Decree.

### Article 38 (Disqualifications)

Any person who falls under any one of the following subparagraphs shall be disqualified for a member of the Committee:

1. A person who falls under any subparagraph of Article 33 of the State Public Officials Act; and
2. A person for whom three years have not yet passed since he was dismissed from the post of member under Article 39.

### Article 39 (Dismissal of Members)

The Minister of Justice may dismiss a member of the Committee when he falls under any of the following subparagraphs:

1. When it is deemed that he is not able to perform his duties or has

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much difficulty in performing his duties due to a mental or physical handicap; or

2. When he is deemed unfit for a member due to neglecting his duties or performing the act of damaging his dignity as a member.

### Article 40 (Review)

- (1) The Committee shall review the matters as prescribed in Article 37 (3) on the basis of materials presented for the deliberation.

- (2) When the Committee finds it necessary in conducting the review as prescribed in paragraph (1), the Committee may have a public official belonging to the Ministry of Justice investigate matters necessary for the decision, or may directly summon and question or investigate a medical treatment and custody subject or a probationer (hereinafter referred to as the "protected person") or other persons concerned.

- (3) The public official who has been ordered to investigate under paragraph (2) shall have the following authorities:

1. Summoning, questioning and investigating the protected person or other persons concerned; and
2. Requesting national or public agencies, or other public or private organizations for confirmation of relevant information or submission of materials concerned.

- (4) A protected person and other persons concerned shall accede to the summons, questioning and investigation under paragraphs (2) and (3), and national or public agencies and other public or private organizations receiving a request for confirmation of information or submission of materials as prescribed in paragraph (3) shall not refuse such requests unless they constitute national secrets or such an action may adversely affect public security and order.

### Article 41 (Resolution and Decisions)

- (1) A quorum of the Committee shall consist of at least half of the registered members, including the chairman, and any decision of the Committee shall be made by a majority vote of the members present: *Provided*, That if the vote is tied, the chairman shall have the deciding vote.

- (2) Any decision by the Committee shall be accompanied by a description of the grounds therefor and shall be in writing bearing the names and seals of the members of the Committee present.

- (3) The Committee may have the head of a medical treatment and cus-

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tody facility or a probation officer submit a written opinion if necessary for making a decision under paragraph (1).

(4) The head of a medical treatment and custody facility shall, in submitting a written opinion under paragraph (3), refer to the opinions of a doctor taking charge in the protected person concerned about his condition and prognosis, the propriety of the termination of medical treatment and custody, etc.

### Article 42 (Challenge of Committee Members)

(1) Where there are circumstances wherein the participation of a Committee member would prejudice the fairness of the review and resolution, the protected person concerned or his legal guardian, etc. may make an application to the chairman for the challenge of such a member.

(2) The chairman shall decide upon whether or not to accept the application under paragraph (1), without going through a resolution of the Committee: *Provided*, That where it is not proper for the chairman to make such a decision, it may be made by means of the Committee's resolution.

(3) The member subject to the challenge motion as referred to in paragraph (1) shall not participate in the resolution stipulated in the proviso of paragraph (2).

### Article 43 (Application for Review by Public Prosecutor)

(1) A public prosecutor of the district public prosecutor's office or the district public prosecutor's branch office having jurisdiction over the area in which a protected person resides (or in which a facility is located if he is committed to the facility) may apply to the Committee for a review of and decision on matters as prescribed in Article 37 (3).

(2) Any application under paragraph (1) shall be filed by submitting the review application in writing and materials necessary for decision on the matters relating to the application. In this case, the public prosecutor shall consult the opinions of the head of the medical treatment and custody facility or the probation officer concerned.

(3) The head of the medical treatment and custody facility or the probation officer may request the public prosecutor concerned to file an application as prescribed in paragraph (1).

### Article 44 (Application for Review by Medical Treatment and Custody Subject, etc.)

(1) A medical treatment and custody subject, his legal guardian, etc. may

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apply to the Committee for a review for termination of medical treatment and custody, on the ground that he is so cured that the medical treatment and custody is no longer necessary.

(2) Any application for review under paragraph (1) shall be filed by submitting the review application in writing and materials in regard to the grounds for the review application.

(3) Any application under paragraph (1) shall be made after a lapse of six months from the date on which the execution of the medical treatment and custody commences. When the application is rejected, the re-application may be made subsequent to a lapse of six months thereafter.

(4) When the Committee rejects the application filed under paragraph (1), the reasons of rejection shall be specified in the written decision.

## CHAPTER VII SUPPLEMENTARY PROVISIONS

Article 45 (Statute of Limitation on Medical Treatment and Custody Application)

(1) The statute of limitation on a medical treatment and custody application shall expire with the expiration of the statute of limitation for the prosecution of the case for criminal offenses which are tried or could have been tried concurrently with the medical treatment and custody case.

(2) The statute of limitation for a case of medical treatment and custody for which an application has been filed shall be deemed to have expired when fifteen years pass by without any final decision commencing from the date of an application.

Article 46 (Statute of Limitation on Medical Treatment and Custody)

(1) Execution of medical treatment and custody shall be barred when the period referred to in each of the following subparagraphs has passed without execution of medical treatment and custody after the judgment became final:

1. Ten years for a case involving medical treatment and custody under Article 2 (1) 1; and
2. Seven years for a case involving medical treatment and custody under Article 2 (1) 2.

(2) The period of suspension of execution or provisional termination of medical treatment and custody or other inexecutable period shall be ex-



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cluded from the calculation of the statute of limitation.

(3) The statute of limitation shall stop upon arrest of the medical treatment and custody subject concerned.

Article 47 (Sentence of Medical Treatment and Custody and Suspension of Qualification)

Anyone sentenced to medical treatment and custody shall be suspended from the following qualifications until completion of the execution of medical treatment and custody or exemption therefrom:

1. Qualification to become a public official;
2. Qualification to become a candidate or to vote provided for in a public law; and
3. Qualification to conduct public affairs the requirements of which are specified by an Act.

Article 48 (Nullification of Medical Treatment and Custody)

(1) A court may nullify a decision of medical treatment and custody at the request of the medical treatment and custody subject or a public prosecutor when he has completed the execution of the medical treatment and custody term or has been exempted therefrom, has compensated for damages to the victim of the offense and has not been sentenced to suspension of qualification or any heavier penalty or another medical treatment and custody order for seven years. Article 337 of the Criminal Procedure Act shall apply *mutatis mutandis* to this proceeding.

(2) A decision of medical treatment and custody shall be considered to have been nullified when the medical treatment and custody subject has completed the execution of medical treatment and custody or has been exempted from such execution, and has not been sentenced to suspension of qualification or a heavier penalty or another medical treatment and custody order for ten years.

Article 49 (Calculation of Term)

(1) The term of medical treatment and custody shall commence from the date on which the execution of the medical treatment and custody commences. In this case, the first day shall be counted as a full day without consideration of the number of hours involved.

(2) A period passed in violation of the execution of medical treatment and custody shall not be counted in the term of the medical treatment and custody.

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### Article 50 (Special Rules for Persons Subject to Military Law)

(1) In medical treatment and custody cases involving those who fall under any of subparagraphs of Article 2 (1) of the Military Court Act, the military court, military prosecutor, and military judicial police official shall perform the functions stipulated in this Act. In this case, the term "military court" shall be read as referring to "court"; the term "military prosecutor", "public prosecutor"; and the term "military judicial police official", "judicial police officer", respectively.

(2) A Military Medical Treatment and Custody Deliberation Committee shall be established in the Ministry of National Defense to administer and manage medical treatment and custody for those who fall under any of subparagraphs of Article 2 (1) of the Military Court Act and to review and decide matters concerning the execution of the medical treatment and custody.

(3) Provisions concerning the Committee shall apply *mutatis mutandis* to the organization and operation of the Military Medical Treatment and Custody Deliberation Committee.

(4) The military court, the military prosecutor or the Military Medical Treatment and Custody Deliberation Committee shall transfer a medical treatment and custody case to the court, the public prosecutor or the Committee corresponding to the transferor, when it appears evident that the person subject to medical treatment and custody does not fall under any of subparagraphs of Article 2 (1) of the Military Court Act. In this case, any investigation, application, trial, request, review or decision made prior to the transfer shall continue in effect even after the transfer.

(5) The court, the public prosecutor or the Committee shall transfer a medical treatment and custody case to the military court, the military prosecutor or the Military Medical Treatment and Custody Deliberation Committee corresponding to the transferor, when it appears evident that the person subject to medical treatment and custody falls under any of subparagraphs of Article 2 (1) of the Military Court Act. In this case, any investigation, application, trial, request, review or decision made prior to the transfer shall continue in effect even after the transfer.

### Article 51 (Application *Mutatis Mutandis* of Other Acts)

In the absence of special provisions in this Act, the provisions of the Criminal Procedure Act, the Criminal Administration Act and the Protection

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and Surveillance, etc. Act shall apply *mutatis mutandis* to medical treatment and custody to the extent that the particular situation of the case does not prohibit such application.

### CHAPTER VIII PENAL PROVISIONS

#### Article 52 (Penal Provisions)

(1) A medical treatment and custody subject shall be sentenced to imprisonment with prison labor for not more than one year if he disobeys orders of the persons in charge of the execution of medical treatment and custody for such medical treatment and custody without any justifiable reasons, or if he escapes.

(2) A medical treatment and custody subject shall be sentenced to imprisonment with prison labor for not more than three years if he commits an offense as prescribed in paragraph (1) by joining together with any other medical treatment and custody subject or subjects.

(3) If a person in charge of the execution of medical treatment and custody permits the medical treatment and custody subject concerned to escape or accommodates such an escape, he shall be sentenced to imprisonment with prison labor with a specific term of not less than one year.

(4) If a person in charge of the execution of medical treatment and custody commits an offense under paragraph (3), after taking, asking for or promising any bribe, he shall be sentenced to imprisonment with prison labor with a specific term of not less than two years.

(5) If a person makes a false report to any public office or official with the purpose of subjecting another person to a medical treatment and custody disposition, he shall be sentenced to imprisonment with prison labor for not more than ten years or to a fine of not more than fifteen million Won.

(6) If a person commits an offense as prescribed in Article 152 (1) of the Criminal Act with regard to a medical treatment and custody application case with the purpose of incriminating the subject for whom medical treatment and custody is applied, he shall be sentenced to imprisonment with prison labor for not more than ten years.

(7) If a person commits any offense provided for in Article 154 of the Criminal Act with regard to a medical treatment and custody applica-

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tion case, he shall be sentenced to imprisonment with prison labor for not more than ten years.

(8) If a person commits any offense provided for in Article 233 or 234 (offense of uttering a false certificate of diagnosis only) of the Criminal Act with regard to a medical treatment and custody application case, he shall be sentenced to imprisonment with or without prison labor for not more than five years, to the suspension of qualification for not more than ten years or to a fine of not more than fifty million Won.

(9) If a legal guardian, etc. of a medical treatment and custody subject who has been entrusted with treatment of the subject as prescribed in Article 23 (3) permits the subject to escape or accommodates his escape in violation of his acknowledgement, the legal guardian, etc. shall be sentenced to imprisonment with prison labor for not more than three years or to a fine of not more than five million Won.

### ADDENDA

#### Article 1 (Enforcement Date)

This Act shall enter into force on the date of its promulgation.

#### Article 2 (Transitional Measures for Persons Sentenced to Medical Treatment and Custody)

A person who was sentenced to the medical treatment and custody under the previous Social Protection Act before the enforcement of this Act shall be considered to have been sentenced to the medical treatment and custody under this Act

#### Article 3 (Transitional Measures for Medical Treatment and Custody Facilities, etc.)

A medical treatment and custody facility and the public officials thereof under the previous Social Protection Act at the time of the entry into force of this Act shall be deemed the medical treatment and custody facility and the public officials thereof under this Act.

#### Article 4 (Transitional Measures for Review, Decision, etc. by Community Protection Committee)

A review and decision conducted by the Community Protection Committee under the previous Social Protection Act before the enforcement of this Act shall be deemed the review and decision made by the Medical Treatment and Custody Deliberation Committee under this Act.

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Article 5 (Transitional Measures for Military Community Protection Committee)

The Military Community Protection Committee established under Article 41 (2) of the previous Social Protection Act at the time of the entry into force of this Act shall be deemed the Military Medical Treatment and Custody Deliberation Committee set up under Article 50 (2) of this Act.

Article 6 (Transitional Measures for Pending Medical Treatment and Custody Cases)

A medical treatment and custody application case pending in a court under the previous Social Protection Act at the time of the entry into force of this Act shall be deemed a medical treatment and custody application case pending in a court under this Act.

Article 7 (Relation to Other Acts and Subordinate Statutes)

If any other Act or subordinate statute cites the Social Protection Act or the provisions thereof at the time of the entry into force of this Act, this Act or the corresponding provisions of this Act shall be deemed to be cited in lieu of the said Act or provisions.

Article 8 Omitted.