

## Content

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## Chapter 1 General Provisions

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| Article 1 | This Act is enacted to ensure the rights of defendants under detention and the smooth progression of criminal procedure and to achieve the purpose of detention.  |
| Article 2 | <p>The competent authority under this Act is the Ministry of Justice. The supervisory authority for detention centers is the Agency of Corrections, Ministry of Justice.</p> <p>The supervisory authority shall assign officials to inspect detention centers at least once every quarter.</p> <p>A juvenile court judge may at any time visit a juvenile defendant detained under his or her order.</p>  |
| Article 3 | <p>A criminal defendant who requires detention shall be detained in a detention center.</p> <p>A juvenile defendant shall be detained in a juvenile detention house. Such juvenile defendants shall be moved to a detention center when they reach twenty years of age.</p> <p>A detention center shall strictly demarcate the accommodation space for defendants in detention based on their gender.</p> <p>Where matters regarding the detention of juvenile defendants are provided in other laws, such other laws shall govern.</p>   |
| Article 4 | <p>Detention center personnel should respect the dignity of defendants and protect their human rights in the performance of duties without overstepping the intended purpose of detention and the limits on necessary actions taken to maintain the order of the detention facility. Detention center personnel shall not discriminate defendants based on race, skin color, sex, language, religion, political affiliation, national origin, ethnicity, social class, wealth, birth, disability or other status.</p> <p>A detention center shall protect the accessibility rights of defendants with disability inside the detention center and take appropriate measures for reasonable accommodation.</p> <p>A detention center shall not place a defendant in solitary confinement for more than fifteen (15) days. Where a detention center imposes solitary confinement on a defendant in the execution of its duties in accordance with laws, it shall regularly report to the supervisory authority and assign medical personnel to conduct continuous evaluation of the physical and mental conditions of the defendant. Where medical</p> |

personnel deems the defendant unfit for continuous solitary confinement, the solitary confinement must be terminated.

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Article 5 To ensure the principle of transparency and to protect the rights and interests of defendants, an independent external inspection panel shall be set up for detention centers. The panel shall consist of three to seven members, each serving a term of two years without pay. The supervisory authority shall report the member candidates to the Ministry of Justice for approval before appointing the members. The members specified in the preceding paragraph shall be selected from experts and scholars in the field of law, medicine, public health, psychology, crime prevention, or human rights. Neither gender shall constitute less than one-third of all members. The inspection panel shall conduct inspections and submit quarterly reports on matters related to the operations of a detention center and the rights and interests of defendants. The detention center shall submit such reports through the supervisory authority to the Ministry of Justice for reference and publish the reports in an appropriate public manner where relevant competent authorities will respond to and handle matters related to the report. Regulations governing the qualifications, appointment (dismissal), inspection method, and authority of the inspection panel members specified in the three preceding paragraphs, the production, submission and publication period of inspection report, and other relevant matters shall be prescribed by the Ministry of Justice.

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Article 6 A detention center may, upon the request of the media, allow the media access to appropriate locations for interviews or visits. It may also, upon the request of the public, allow people access to appropriate locations for visits.

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## Chapter 2 Admission

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Article 7 When a detention center admits a defendant, the detention center shall examine the writ of detention signed by the court together with the identification of the defendant. A detention center should refuse to accept a defendant in the absence of a writ of detention mentioned in the preceding paragraph.

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Article 8 A detention center shall assign an identification number and produce a record of the defendant's personal identification and name after a defendant is admitted to the detention center.

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Article 9 A detention center shall investigate relevant information of a defendant upon receiving the defendant. To implement the aforementioned investigation, a detention center may, within the necessary scope, collect, process, or use the personal information of each defendant, and request relevant authorities (agencies), legal entities, organizations, or individuals to provide relevant information, to which authorities (agencies), legal entities, organizations, or individuals may not refuse without a legitimate reason. Regulations governing the scope, period, procedures, methodology, review, and other requirements for the investigation of defendant information specified in Paragraph 1 shall be prescribed by the Ministry of Justice.

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Article 10 Where a female defendant newly admitted or already admitted to a detention center requests to bring her children under three years of age with her, the detention center may submit relevant information to the social welfare authority of the municipal or county (city) government at the location of the children's household registration, and allow the request if the social welfare authority deems that it is in the best interest of the children after an evaluation. The evaluation period for the social welfare authority of the municipal or county (city) government in the preceding paragraph shall be limited to two months and the evaluation report shall be delivered to the detention center. The detention center may temporarily accommodate the children of a newly admitted or already admitted female defendant during the evaluation period specified in the preceding paragraph.

Children entering a detention center with their mothers may stay until they are three years old at the most. However, if it is deemed by the social welfare authority mentioned in Paragraph 1 that it is in the best interest of the children to stay in the detention center, the detention center may extend their stay until the children reach three years and six months of age.

If a child residing in the detention center has any of the following conditions, the detention center shall notify the social welfare authority of the municipal or county (city) government at the location of the children's household registration to conduct visit and evaluation, arrange a transfer to other placement facilities, or take other necessary actions:

1. The child exhibits fear, social withdrawal, or other conditions that evidently indicate that accommodation in the detention center is unsuitable for the child;
2. The child reaches three years of age or his/her extended accommodation according to the proviso of the preceding paragraph expires;
3. The accommodation of the child in the detention center is deemed not in his/her best interest based on the evaluation in Paragraph 1; or
4. The child is required to leave detention center due to changes in circumstances.

The provisions of the five preceding paragraphs shall apply to children given birth by defendants in the detention center. However their birth certificates may not include matters related to the detention.

For the care of children residing in the detention center, the detention center shall arrange space for activities and provide necessary facilities or equipment. They may also consult social welfare and relevant authorities (agencies), legal entities, organizations, or individuals to assist in related education and guidance for the children of defendants. The social welfare authority of municipal or county (city) government at the location of the children's household registration should provide necessary assistance for the accommodations of children in a detention center.

Where necessary, the social welfare authority of municipal or county (city) government at the location of a child's household registration may entrust the social welfare authority of another municipal or county (city) government to undertake matters set out in Paragraph 1, Paragraph 2, Paragraph 4, Paragraph 5, and the preceding paragraph.

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Article 11

Every defendant shall receive a health examination upon arrival at a detention center, to which the defendant may not refuse; a defendant having any of the following situations shall be placed in the patient ward, segregated, escorted to a hospital or subject to other appropriate treatments, and the detention center shall report to the court that issues the detention order or the prosecutor immediately:

1. There are objective facts adequately showing that the defendant lacks the cognitive abilities to handle his/her own affairs due to his/her physical or mental conditions;
2. The defendant is suffering from an illness that his/her life may be in danger while under detention;
3. The female individual is pregnant for more than five months or has given birth less than two months prior;
4. The individual suffers from a notifiable communicable disease and his/her detention may cause cluster infection;
5. The defendant suffers from frailty or physical or mental disability and cannot take care of himself/herself in detention center; or
6. The defendant has obvious physical wounds and states that he/she has been subject to torture.

If a defendant has any situation under Subparagraph 1, 2, or 6 of the preceding paragraph, and the detention center knows that the defendant has a defense attorney, the detention center shall notify the defense attorney.

The examination specified in Paragraph 1 shall be administered by a doctor who may also perform necessary medical procedures. Where deemed necessary after the examination, the detention center may engage other outside professionals to provide assistance.

Where the examination specified in Paragraph 1 cannot be administered in the detention center, the detention center may escort the defendant under guard to a hospital for examination.

Where a defendant who is denied visits and correspondence by the court that issues the detention order has a situation described in the preceding paragraph, the detention center should, by its vested authority or at the request of the defendant, submit the diagnosis and relevant information promptly to the court that issues the detention order for a decision. If the court grants an approval, the detention center will escort the defendant under guard to a hospital for examination. However in case of urgency, the detention center may first escort the defendant to a medical institution for examination and inform the court that issues the detention order immediately. If the court does not think examination at a hospital should be allowed, it shall issue a ruling of revocation in five (5) days.

Where a defendant who is denied visits and correspondence by the court that issues the detention order has a situation that requires escort to a hospital according to the latter section of Paragraph 1, the detention center should, by its vested authority or at the request of the defendant, submit the defendant's diagnosis information promptly to the court that issues the detention order for a decision. If the court grants an approval, the detention center will escort the defendant under guard to a hospital for treatment. However in case of urgency, the detention center may first escort the defendant to a medical institution for treatment and inform the court that issues the detention order immediately. If the court does not think treatment at a medical institution should be allowed, it shall issue a ruling of revocation in five (5) days.

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Article 12

To maintain order and security of the detention centers and prevent the inflow of contrabands, the body, clothes, and belongings of a defendant shall be examined upon arrival at a detention center. Where necessary, a detention center may collect the urine samples of defendants and use technical equipment to aid the examination.

Where a defendant is required to strip for physical examination specified in the preceding paragraph, the examination shall be conducted in a shielded area and the detention center must exercise due care to protect the privacy and dignity of the defendant. Examination of male defendants shall be conducted by male officers while examination of female defendants shall be conducted by female officers.

Invasive examination is not allowed unless there is substantial evidence showing that the defendant may conceal contrabands or other items that may endanger the order and security of the detention center. Where an invasive examination is necessary, the approval of a senior detention center official is required and the examination shall be administered by medical personnel.

To verify the identity of a defendant, a detention center should take photograph and fingerprints or record other physical characteristics of the defendant. It may also use technical equipment to assist in the identification.

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Article 13

After a defendant is admitted to a detention center, he/she shall be allowed to notify designated relatives, friends and defense attorney; provided, however, that if defendant is denied correspondence by the court that issues the detention order or the prosecutor, the detention center should make such notification on his/her behalf.

The notification made by a detention center on behalf of a defendant under the preceding paragraph should include the following information:

1. The location at where the defendant is detained.
2. The reasons for defendant's detention.
3. The provisions in Article 27 of the Code of Criminal Procedure that allows a defendant to retain defense attorneys.

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Article 14

Defendants shall be informed of the following matters when they receive instructions upon arrival at a detention center. The detention center shall also produce manuals and deliver them to defendants for information:

1. Rules of the detention center.
2. Visit and correspondence matters.
3. Rewards and punishments.
4. Regulations for petition, complaint, and legal remedy.
5. Sanitation, health, and medical matters.

6. Rules for safekeeping of money and personal items.
7. Legal assistance information.
8. Other matters to be noted.

Where a defendant is disabled, does not speak a language of the Republic of China, or has other reasons that prevent him/her from understanding the meaning of contents specified in the subparagraphs of the preceding paragraph, the detention center shall provide suitable assistance. Important regulations, administrative rules, and interpretations of laws related to the rights and obligations of defendants under detention should be published in an appropriate manner so defendants are sufficiently informed.

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### Chapter 3 Confinement and Security

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Article 15      Housing areas at a detention center include single housing areas and group housing areas.  
As a principle, defendants are assigned to group housing areas after admission. A detention center may adjust housing area assignment based on its management needs.  
Co-defendants or defendants involved in a same case should be assigned to different housing areas.  
If it is inappropriate for a defendant to share a housing area with other defendants due to frailty, illness or disability, the defendant may be placed in the patient ward.

Article 16      A detention center must be securely guarded and may use technical equipment for assistance to ensure security.  
Where a detention center deems it necessary, it may search and inspect the housing areas of defendants and other locations. In addition, the provisions of Article 12 regarding physical examination and identification in Article 12 shall apply mutatis mutandis to such inspections.  
To ensure security, a detention center may, to the extent necessary, use technical equipment specified in Paragraph 1 to collect, process, and use personal information of defendants or individuals entering or exiting the detention center.  
For security purpose, a detention center may inspect the clothes and items carried by individuals entering or exiting the center and may use technical equipment to aid the inspection.  
The security measures, search, and inspection specified in Paragraph 1, Paragraph 2, and the preceding paragraph may not exceed the necessary extent.  
Regulations governing the types, installation, management, usage, data storage, and other requirements for technical equipment specified in Paragraph 1 to Paragraph 4 shall be prescribed by the Ministry of Justice.

Article 17      A detention center may implement protective isolation under any of the following circumstances:  
1. A defendant poses a threat to the security of the detention center.  
2. The safety of a defendant is threatened.  
3. The protective isolation specified in the preceding paragraph shall be approved by senior detention center officials. However, in case of emergency, such measures may be implemented without prior approval but must be immediately reported to a senior detention center official.  
A detention center shall regularly report the decisions made on measures in Paragraph 1 to the supervisory authority for reference. After a detention center implements protective isolation, in addition to notifying the defendant in a written format, it shall notify the defendant's family member or nearest relative and arrange medical personnel to conduct continuous evaluation of the physical and mental conditions of the defendant. Where medical personnel deem the defendant unfit for continuous protective isolation, protective isolation should be discontinued. Where there are multiple family members or nearest relatives, the detention center is only required to notify one such individual.  
The protective isolation specified in Paragraph 1 may not exceed the necessary extent, shall be immediately terminated once the reason ceases to exist, and may not last for more than fifteen (15) days.

Regulations governing the daily routines, treatment, limitations, and restrictions of defendants in protective isolation under Paragraph 1, the notifications specified in Paragraph 3, and other requirements shall be prescribed by the Ministry of Justice.

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Article 18

If it is deemed necessary for achieving the purpose of detention and maintaining order, a detention center may restrict the movements of a criminal defendant.

A detention center may use guard instruments, protective restraint or placement in a protective cell, or a combination of the above measures on a defendant and notify the defendant's defense attorney if the defendant has any of the following situations and it is so approved by the court that issues the detention order:

1. There is likelihood that the defendant may attempt to escape, or commit self-harm, violent act or other acts that disrupt order.
2. Such measures are necessary for medical procedures that restraint is required for preventing endangerment.

A detention center may not use guard instruments, protective restraint, or placement in a protective cell specified in the preceding paragraph as ways to punish defendants. The use of protective restraint may not exceed four hours each time; placement in a protective cell may not exceed 24 hours each time. In addition to notifying the defendant in a written format, the detention center shall also notify the defendant's family member or nearest relative. Where there are multiple family members or nearest relatives, the detention center is only required to notify one such individual.

Where the situation in Paragraph 2 is deemed to be of an urgent nature, the detention center may proceed with the necessary measure, but should immediately report to the court that issues the detention order for approval, and discontinue the measure if the court disallows.

Guard instruments are limited to leg shackles, handcuffs, chains and ropes approved by the Ministry of Justice. Where the use of guard instruments exceeds four hours, a detention center is required to produce a record, ask for the defendant's signature, and give the defendant a copy of the record. The use of guard instruments may not exceed forty-eight hours each time and the starting and ending time must be documented. However, the preceding restrictions do not apply if the defendant is violent or if there are other disruptive acts that cause commotions or riots and the detention center deems it necessary to continue the use.

The measures specified in Paragraph 4 shall require the approval of a senior detention center official. However, in case of emergency, such measures may be implemented without prior approval but must be immediately reported to a senior detention center official. A detention center shall regularly report the implementation status of measures under Paragraph 2 and Paragraph 4 to the supervisory authority for reference.

Where a defendant is subject to measures in Paragraph 2 or Paragraph 4, the detention center shall promptly arrange medical personnel to evaluate the physical and mental conditions of the defendant and provide proper assistance. Where the detention center deems it necessary to terminate or change the measures, it shall report to a senior detention center official immediately and the senior official should take appropriate actions.

Regulations governing the procedures, methods, and specifications for the use of guard instruments, protective restraint and placement in a protective cell in Paragraph 2 and Paragraph 4, notifications specified in Paragraph 2 and Paragraph 3, and other requirements shall be prescribed by the Ministry of Justice.

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Article 19

Where a detention center escorts a defendant outside under guard and deems that the defendant may attempt to escape, commit self-harm or violent act, guard instruments may be used with the approval of a senior detention center official. However, the use of guard instruments may not exceed the necessary extent.

When a defendant travels outside the detention center, the detention center may use technical equipment to implement electronic monitoring measures.

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Article 20

Correctional officers at a detention center may use batons, knives,

firearms, and other weapons approved by the Ministry of Justice to implement necessary measures under any of the following circumstances:

1. A defendant uses violence or coercion to threaten the lives, physical safety, or freedom of others or there is sufficient evidence of imminent act of violence or threat.
2. A defendant is in possession of an object that enables him/her to engage in the act of violence or threat and the defendant refuses to obey order to drop such an object.
3. A defendant assembles a crowd for riot or commits other disruptive acts and refuses to obey order to stop.
4. A defendant escapes or attempts to escape and refuses to stop when ordered;
5. The equipment or facilities of the detention center is plundered or damaged or there are sufficient facts indicating the likelihood of equipment or facilities being damaged.

Correctional officers may use firearms only when their lives or the lives of others are in imminent danger, and the use of firearms may not be excessive.

Regulations governing the types, timing and method of use, and other requirements for batons, knives, firearms, and weapons specified in the two preceding paragraphs shall be prescribed by the Ministry of Justice.

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Article 21      In the event of a major extraordinary incident, a detention center may, where necessary, request police or other relevant agencies to provide assistance in order to enhance security, custody and control of defendants.

In the event of a natural disaster or an incident, defendants may be assigned to disaster prevention and rescue tasks to ensure the safety of detention center facilities and defendants.

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Article 22      Where a detention center cannot provide shelter in the event of a natural disaster or incident, the defendants may be escorted to an alternative facility. Where the escort cannot be facilitated in a timely manner, the defendants may be temporarily released.

The defendants temporarily released in accordance with the preceding paragraph shall report to the detention center or a police agency within 48 hours of their release. Defendants who report in a timely manner may have their release period counted as days of detention; those that fail to report in a timely manner shall be processed as escapees, who will be reported to their courts that issue the detention order and the prosecutors.

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Article 23      In the event of the death of a defendant's grandparent, parent, spouse, child, sibling, or parent of spouse, the defendant may, with approval from senior detention center officials, go home for a visit under escort and then return back to the detention center within 24 hours. The duration of the visit will be counted as days of detention.

The regulations in the preceding paragraph shall apply mutatis mutandis to a defendant who needs to go home for a visit due to a major or extraordinary incident. In such a case, the visit shall be reported to the supervisory authority and approved.

Regulations governing the criteria for home visit by defendants, eligible individuals, number of visits, duration, expenses, implementation methods, approval procedures, review standards, changes or cancellation after approval, and other requirements shall be prescribed by the Ministry of Justice.

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#### Chapter 4 Work

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Article 24      A detention center may allow defendants to participate in work if they are so willing. The supervisory authority may request the Ministry of Labor to assist detention centers in ways of developing work programs and improving operational effectiveness.

Works for defendants should take into consideration sanitation, guidance, economic benefits as well as defendant's health, knowledge, skills, and abilities to make a living after release.

A detention center should set up workshops or other specific worksites based on the nature of work, and heed the safety and health of defendants in deciding the type of work and equipment and materials used.

The work programs mentioned in Paragraph 1 should be decided in view of the local economic environment, community enterprises, supply and demand, and future development trends so as to meet the demands of the society and the market.

Defendants engaging in cooking, cleaning, repair and maintenance, caretaking, and other works assigned by the detention center shall be regarded as work.

The supervisory authority may request the Ministry of Labor to assist detention centers in developing occupational training programs and improving training effectiveness.

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Article 25 Work time shall be determined in consideration of guidance, quantity, type of work, status of equipment, and other conditions and it shall not exceed eight hours a day. However, work time may be extended under special circumstances. The extended work time plus regular work time shall not exceed twelve hours a day.

The extended work time for defendants specified in the preceding paragraph shall have the consent of the defendant before it is put into effect, and the defendant shall receive overtime pay.

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Article 26 Defendants' work shall be regarded as a curriculum based on labor productivity or work time. Labor productivity shall be determined based on the average productivity of the general laborers outside.

A detention center may engage professionals to assist in ways of providing defendants with guidance and instructions in work.

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Article 27 The work types of a detention center may include work run by the detention center, processing work consigned by others, work contracted to the detention center, and other works.

The business plans for works specified in the preceding paragraph and related contracts shall be submitted to the supervisory authority for approval.

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Article 28 The work of a defendant may be suspended under any of the following circumstances:

1. Public holidays.
2. Death of a defendant's spouse, direct blood relative, or relative within third degree of kinship. However, work may only be suspended for up to seven days at the most.
3. Where the detention center deems it necessary due to other circumstances.

Defendants engaging in cooking, cleaning, and other works that require timely completion may not stop their work except under the circumstance specified in Subparagraph 2 of the preceding paragraph.

Where a defendant requests to continue working under a circumstance specified in Paragraph 1 and the request meets the management needs of the detention center, the detention center may allow the defendant to do so.

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Article 29 Defendants who work shall receive labor wage.

The calculation and payment of labor wage for defendants in the preceding paragraph shall be based on an allocated percentage of total amount of labor wage as well as the defendant's actual work time and labor productivity. Regulations governing the settings of the allocation ratio, distribution, and relevant matters shall be prescribed by the Ministry of Justice.

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Article 30 The work income minus costs is referred to as work surplus which shall be distributed as follows:

1. 60% shall be allocated to labor wage specified in the preceding article.
  2. 10% shall be allocated to food subsidy for defendants.
  3. The remaining portions shall be allocated to defendants' professional training and supplementary funding for taking care of defendants and their family members.
  4. The remainder, if any, shall be allocated to the Correctional Agency Operating Fund, Ministry of Justice (hereinafter referred to as "Operating Fund" ) for future use.
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Article 31 Where a defendant is injured, falls ill, suffers a major injury, becomes disabled, or dies due to work or occupational training, compensation shall be paid.  
The aforementioned compensation shall be paid from the Operating Fund. Regulations governing the criteria for determining injury, illness, major injury, and disability, payment amount, application procedures, qualifications of recipient, and other requirements shall be prescribed by the Ministry of Justice.

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Article 32 Upon the death of a defendant, the defendant's labor wage or other compensations shall be handled in accordance with Article 73 and Subparagraph 4, Paragraph 1 of Article 74. Compensations that are not collected or claimed will be transferred to the Operating Fund.

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### **Chapter 5 Guidance, Counseling and Activities**

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Article 33 A detention center should provide defendants with guidance and counseling, and produce a counseling record.

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Article 34 A detention center may set up library facilities and provide library information services or publications for reading by defendants. Unless it is otherwise provided by law, a detention center may provide suitable computer equipment for usage by defendants.

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Article 35 Defendants are permitted to prepare their own books, newspapers, and Braille books or request the use of papers and pens and other necessary items. However, such activities may be limited or denied if they adversely affect the daily routines, management, or safety of the detention center.

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Article 36 A detention center should arrange various cultural and entertainment activities at appropriate times to improve the physical and mental wellbeing of defendants.

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Article 37 A detention center may hold courses on restorative justice, and assist in the mediation and restoration between a defendant and his/her victims.

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Article 38 Unless it is otherwise provided by law, a detention center may provide radios, televisions, audio/video equipment, or computer equipment for guidance and counseling.  
With the approval of the detention center, defendants are permitted to own personal radio, television, or audio/video equipment for listening and viewing.  
A detention center should consider the unique requirements for accommodating defendants with disabilities, the conditions of existing facilities, and the special needs of disabled defendants by providing barrier-free assistive measures for viewing, listening, speaking activities.  
If the listening or viewing activities specified in the two preceding paragraphs adversely affects the daily routines, management, or safety of the detention center, they may be limited or denied.

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Article 39 Defendants have the freedom to practice their religious beliefs which may not be limited or denied. However, the preceding provision does not apply if a religious activity adversely affects the order or security of the detention center.  
A detention center may, based on the request of a defendant, arrange suitable religious teachers to provide counseling to the defendant.  
A detention center may invite religious figures to host religious activities beneficial to the defendants.  
Defendants are permitted to own objects or books related to their religious beliefs. However, items that adversely affect the order, security, or management of the detention center may be limited or denied.

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Article 40 A detention center may appoint or invite people with relevant knowledge or passion for counseling to assist in counseling activities. A detention center may also recruit people interested in public welfare initiatives as volunteers to assist in counseling work.  
The volunteers specified in the preceding paragraph shall be reported by

the detention center to the supervisory authority for approval before their recruitment.

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## Chapter 6 Provisions and Supplies

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- Article 41 To maintain the physical health of defendants, a detention center shall provide food, necessary clothes, bedding, goods, and other utensils. A defendant may request the detention center to provide proper food and drink due to religious beliefs or other factors.
- Article 42 The food, clothing, and necessary items for children of defendants brought into or born in the detention center must be prepared by defendants; where a defendant is unable to provide such necessities, they may be prepared by the detention center.
- Article 43 Defendants are not allowed to have alcoholic drinks and betel nuts. A detention center may allow defendants to smoke cigarettes at a designated place during designated time, and should educate defendants about and publicize the hazards of smoking, while providing suitable incentives for defendants to quit smoking. Regulations governing the qualifications of defendant, time, place, facility, and quantity for smoking, tobacco hazard prevention education and campaign, smoking cessation programs, and incentives mentioned in the preceding paragraph, and other requirements shall be prescribed by the Ministry of Justice.
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## Chapter 7 Sanitation and Healthcare

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- Article 44 A detention center should monitor the physical and mental conditions of defendants and manage their medical treatment, preventive healthcare, screening, prevention of communicable diseases, and food hygiene. A detention center may, based on its size, the people it holds and their characteristics, deploy medical personnel within the scope permitted by available resources to provide consulting services during nighttime and on holidays for determining whether to escort a defendant to medical services outside the detention center. A detention center may entrust medical institutions or other professional institutions to handle the operations in two preceding paragraphs. Medical institutions under the Ministry of Health and Welfare, Ministry of Education, Ministry of National Defense, Veterans Affairs Council, or municipal or county (city) government shall assist detention centers in undertaking operations specified in Paragraph 1 and Paragraph 2. Health authorities shall regularly supervise, coordinate, and assist in improving operations specified in four preceding paragraphs. A detention center shall also coordinate with the local health authority in undertaking those operations.
- Article 45 A detention center must be kept clean, conduct sanitary inspection regularly, and timely instruct defendants to engage in essential affairs, such as cleaning, washing and tidying clothes, blankets, and utensils.
- Article 46 Defendants' housing areas, workshops and other areas must be provided with sufficient space, lighting, and ventilation for the benefits of health. Defendants shall also be provided with sufficient bathroom facilities for their daily use. Items provided by a detention center for usage by defendants must meet sanitary and safety requirements.
- Article 47 To maintain the health and sanitation of defendants, a detention center shall provide cold and hot water and cleaning water based on the season, require defendants to take showers, and allow them to cut hair and shave.
- Article 48 A detention center shall provide defendants with suitable space, facilities, and equipment for exercising. With the exception of public holidays, rest days, or special circumstances, a detention center shall allow defendants to exercise one hour each day. To maintain the health of defendants, the exercise space should be set up outdoors in principle; where necessary, defendants may exercise or

participate in activities for relaxation at suitable places indoors.

Article 49

A detention center shall arrange regular health evaluation for defendants, and where necessary, arrange health examination for them and promote self-health management measures.

A detention center may perform necessary medical procedures when administering health examination specified in the preceding paragraph. A defendant or a defendant's nearest relative or family member may request the detention center to allow them to hire medical personnel at their own expense to perform health examination for the defendant inside the detention center under the circumstance that there will be no adverse impact on the order of the detention center and it is deemed necessary by a physician.

The detention center may provide defendants with the results of health examination specified in Paragraph 1 upon request.

A defendant may, for health reasons, request the purchase or the delivery of low-risk medical devices or health products at his/her own expense after a doctor has evaluated the feasibility of such use under the circumstance that there will be no adverse impact on the safety and order of the detention center.

Article 70 and Article 72 to Article 74 shall apply mutatis mutandis to the return or acceptance of items purchased or delivered in accordance with the preceding paragraph.

Article 50

To protect the health of defendants or to monitor their physical and mental conditions, a detention center may collect, process, or use the medical records, medical information, and personal information of defendants specified in Paragraph 1 of the preceding article and handle such information properly.

To implement actions in the preceding paragraph, a detention center may request authorities (agencies), legal entities, organizations, or individuals to provide relevant information, to which authorities (agencies), legal entities, organizations, or individuals may not refuse without legitimate reasons.

Regulations governing the scope, period, procedures, methodology, review, and other requirements for the investigation of defendant health information specified in Paragraph 1 shall be prescribed by the Ministry of Justice.

Article 51

Where a detention center reports a suspected case of communicable disease, the local health authority shall assist the detention center in prevention and handling. Where necessary, the local health authority may request the central health authority to provide assistance.

Where a detention center admits a defendant from or passing through areas with communicable diseases, the detention center may quarantine the defendant for a certain period of time, and take necessary procedures for items carried by such defendant

Where a defendant admitted by a detention center is suspected or diagnosed of a communicable disease by a doctor, the doctor may prescribe a certain period of quarantine and provide proper treatment. The length of treatment or regimen shall follow the doctor's instructions or the instructions or guidance of the health authority. The items carried by the defendant shall be handled in accordance with necessary procedures.

Where a health authority notifies a detention center to transfer a defendant contracted with a communicable disease to a designated quarantine facility for treatment, the detention center shall immediately coordinate the escort and safety operations with the designated facility and report to the supervisory authority. Defendants receiving treatment in quarantine shall be regarded as under detention.

Article 52

A defendant who suffers from a disease and requires close observation and treatment based on a doctor's evaluation may be accommodated in the patient ward of the detention center.

Article 53

Where a defendant eligible for enrollment in National Health Insurance (NHI) in accordance with the National Health Insurance Act or the child of a defendant brought into or born in a detention center contracts a disease, he/she shall receive medical treatment as a NHI insured person except where he/she has obtained approval for paying for his/her own

medical expenses; where such a defendant does not have a NHI certificate, the detention center may, at its sole discretion, apply for a certificate on behalf of the defendant.

Where a defendant is eligible for enrollment in NHI but is temporarily suspended from receiving insurance coverage, the medical expenses of the defendant in the event of illnesses shall be borne solely by the defendant.

A detention center may deduct the following expenses payable by a defendant from the defendant's money under safekeeping or labor wage:

1. Expenses incurred from medical services received under NHI coverage specified in Paragraph 1.
2. Expenses incurred from the replacement, reissuance, and application for NHI certificate.
3. Medical expenses in the preceding paragraph payable by the defendant.

Where a defendant or a child of a defendant brought into or born in a detention center is not eligible to enroll in NHI or where a defendant cannot afford to pay the expenses in Subparagraph 1 of the preceding paragraph due to financial difficulties, the detention center shall engage a medical institution or a doctor to provide treatment when the defendant or his/her child contracts a disease during admission or accommodation.

Regulations governing the criteria for determining financial difficulties described in the preceding paragraph, application procedures, and other requirements shall be prescribed by the Ministry of Justice.

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Article 54

Where a defendant is injured or contracts a disease but refuses to accept medical treatment that his/her life may be in danger, the detention center shall immediately engage a doctor to provide treatment or send the defendant to a medical institution for treatment.

The medical and transportation expenses for delivering the defendant to a medical institution for treatment in the preceding paragraph shall be borne solely by the defendant.

A defendant being escorted to and treated at a medical institution specified in Paragraph 1 shall be regarded as under detention.

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Article 55

After a defendant suffering from an injury or an illness has received medical treatment provided under NHI coverage or by a doctor arranged by the detention center and there is a legitimate reason for the defendant to obtain treatment from another doctor, a detention center may approve the request of the defendant to see another doctor inside the detention center at his/her own expense.

Where a defendant sees a doctor at his/her own expense according to the preceding paragraph but the defendant needs to be escorted to a medical institution for treatment, the detention center shall report the matter to the court that issues the detention order or the prosecutor in a written format afterwards.

Where a defendant who is denied visits and correspondence by the court that issues the detention order needs to be escorted to a medical institution for treatment at his/her expense according to the preceding paragraph, the detention center should, by its vested authority or at the request of the defendant, submit the defendant's diagnosis information promptly to the court that issues the detention order for a decision. If the court grants an approval, the detention center will escort the defendant under guard to a medical institution for treatment. However in case of urgency, the detention center may first escort the defendant to a medical institution for treatment and inform the court that issues the detention order immediately. If the court does not think treatment at a medical institution should be allowed, it shall issue a ruling of revocation in five (5) days.

Regulations governing the application procedures for seeing a doctor at the defendant's own expense in Paragraph 1, requirements, implementation method, time, place, payment of fees, and other requirements shall be prescribed by the Ministry of Justice.

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Article 56

Where a defendant is injured or contracts a disease and the doctor seeing the defendant deems it necessary for the defendant to obtain treatment at a medical institution, the detention center may escort the defendant to a medical institution for treatment, and report the defendant's diagnosis information to the court that issues the detention order or the

prosecutor in a written format afterwards.

Where a defendant who is denied visits and correspondence by the court that issues the detention order has a situation specified in the preceding paragraph, the detention center should, by its vested authority or at the request of the defendant, submit the defendant's diagnosis information promptly to the court that issues the detention order for a decision. If the court grants an approval, the detention center will escort the defendant under guard to a medical institution for treatment. However in case of urgency, the detention center may first escort the defendant to a medical institution for treatment and inform the court that issues the detention order immediately. If the court does not think treatment at a medical institution should be allowed, it shall issue a ruling of revocation in five (5) days.

If a defendant has any situation specified in either of the preceding two paragraphs, and the detention center knows that the defendant has a defense attorney, the detention center shall notify the defense attorney. The transportation expenses for delivering a defendant to a medical institution for treatment shall be borne solely by the defendant. This shall not apply, however, if the defendant does not have the financial means to pay for such expenses.

A defendant being escorted to and treated at a medical institution shall be regarded as under detention.

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Article 57      Where a defendant refuses food or drink, or fails to take medicine as instructed by a doctor that may put his/her life in danger, the detention center should immediately ask a doctor to provide treatment, and may allow the doctor to force-feed the defendant or take medically necessary forceful measures.

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Article 58      Unless otherwise stipulated by law, no medical or scientific experiment that may damage a person's health can be conducted on a defendant even with the consent of the defendant.  
Unless otherwise stipulated by law, blood or other specimens taken from a defendant for diagnosis, treatment or health examination cannot be utilized for any other purposes.

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## Chapter 8 Visits and Correspondence

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Article 59      A detention center may not limit or deny defendants visitors or correspondence, except where it is otherwise stipulated by law or where the defendant voluntarily refuses a visitor or correspondence.  
A detention center, based on the request of a defendant, shall assist the defendant in receiving and communicating with diplomatic or consular personnel of the defendant's country or region or people who can represent the defendant's country or region.

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Article 60      A detention center should arrange visits on weekdays, and may consider permitting visits on public holidays or other rest days.  
Unless otherwise stipulated by law, a defendant may receive visitors once a day for a period of no more than thirty minutes each time. However, the number or the duration of visit may be added or extended if deemed necessary by a senior detention center official.

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Article 61      An individual requesting to visit a defendant must submit identification paper and register his/her name, occupation, age, residential address, name of the defendant, and relationship with the defendant.  
Where the detention center deems that the individual requesting a visit may adversely affect the order or security of the detention center, it may refuse the visit request.  
A visit should be conducted in the visitation room. However, a detention center may permit the visit to be held at a suitable place if it is necessary due to illness or management needs.  
No more than three persons may visit a defendant each time unless it is otherwise stipulated in this Act or other laws or it is permitted by a senior detention center official.  
An individual approved for a visit may bring children under 12 years of age, who will not be counted toward the limit on the number of visitors in the preceding paragraph.

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Article 62 Unless otherwise stipulated by law, a detention center shall monitor and video or audio record the visits. However the contents of recording must not be used illegally.  
Where there are sufficient facts to believe that the visit may adversely affect the order or security of the detention center, the detention center may listen during the visit or review the contents of the video or audio recordings after the visit.  
Where the order or security of the detention center is adversely affected during a visit, guards may terminate the visit and specify the reason in a written format.  
Visitors must not use communication or video or audio recording devices when visiting a defendant. Violations will be dealt with in accordance with regulations in the preceding paragraph.

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Article 63 Where a detention center deems the request of a visit from a defendant or an individual has a reasonable cause, it may allow them to conduct the visit by telephone or other means of communication.  
The communication expenses in the preceding paragraph shall be borne solely by the defendant or the individual requesting a visit. However, where the defendant cannot afford the expenses and the detention center deems it appropriate, the detention center may pay for the expenses.  
Regulations governing the criteria for visits, visitors, limits on the number of visits, means of communication, communication application procedures, time, monitoring, listening, and charges in the preceding two paragraphs, and other requirements shall be prescribed by the Ministry of Justice.

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Article 64 If deemed necessary for management, guidance and counseling, major personal incident of a defendant, or other reasons, a detention center may allow a defendant to see visitors at a designated place in the detention center and adjust the limitations on duration and number of visits, place of visit and number of visitors specified in Article 60 and Paragraph 3 and Paragraph 4 of Article 61.

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Article 65 Unless otherwise stipulated by law, detention center personnel may only visually monitor meetings of defendants with their lawyer or defense attorney and shall not make video or audio recordings. Except where there are factual difficulties, the number of such visits and duration should not be limited.  
To uphold the order and security of the detention center, detention center personnel may only check whether there are contrabands concealed in the books and documents exchanged between defendants and their lawyer or defense attorney during a visit, unless it is otherwise stipulated by law.  
The visits specified in Paragraph 1 shall be conducted at a designated place in the detention center.  
The provisions of Paragraph 1 of Article 59, Paragraph 1 of Article 60, Paragraph 1 of Article 61, and Paragraph 3 and Paragraph 4 of Article 62 shall apply mutatis mutandis to the visits of lawyers or defense attorneys.  
The provisions of the four preceding paragraphs shall apply mutatis mutandis to situations where a lawyer not appointed by a defendant requests a visit with the defendant to discuss his/her appointment.

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Article 66 For letters mailed or received by defendants, detention center personnel may open the letters or use other appropriate means to check whether there are contrabands concealed therein.  
Unless otherwise stipulated by law, detention center personnel may read the letters of defendants in the preceding paragraph under any of the following circumstances except for correspondences between defendants and their lawyer, defense attorney, or a public agency:  
1. Where the defendant has behaved in a manner that adversely affects the order or security of the detention center and the incident is still under investigation.  
2. The defendant is still subject to disciplinary actions.  
3. There are facts and reasonable cause to suspect that the defendant may attempt to escape.  
4. Correspondence between defendants in correctional facilities.

5. There are facts and reasonable cause to suspect that the defendant may endanger the security or order of the detention center.

After the detention center reads the correspondence of a defendant, it may specify a reason and delete the contents if it discovers any of the situations below:

1. The contents evidently pose a threat to detention center' s security or order;
  2. The contents incite or instigate others to commit crimes or break laws;
  3. Symbols, codes, or other methods are used to prevent the inspectors from understanding the contents of the correspondence;
  4. The contents involve escape plans;
  5. The contents describe the security conditions of the correctional facilities, the locations of housing areas and workshops, or other information that may adversely affect the facility' s guard and security.
- The deletion of contents in the correspondence in the preceding paragraph shall be handled in the following manners:

1. Where the defendant is the sender, the detention center shall specify the reason and return the letter to the defendant for keeping or request the defendant to revise the letter before sending it again. If the defendant refuses to revise the letter, the detention center may delete such contents and then send the letter.

2. Where the defendant is the recipient, the detention center shall specify the reason and delete such contents before delivery.

The original contents of letters deleted in accordance with the preceding paragraph shall be photocopied and retained by the detention center. They shall be returned to the defendant upon his/her release. Where a defendant passes away before release, the correspondence shall be handled in accordance with Article 73 and Subparagraph 4, Paragraph 1 of Article 74.

For documents sent by a defendant that are articles in nature, a detention center may allow them to be sent to newspapers, magazines, or other media and the provisions of the five preceding paragraphs shall apply.

The postage expenses shall be borne solely by the defendant. However, where a defendant cannot afford the expenses and the detention center deems it appropriate, the detention center may pay for the expenses.

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Article 67      Requests submitted by defendants to a court, prosecutor, or public agency or correspondence delivered by public agencies to defendants shall be forwarded by the detention center without delay.

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## Chapter 9 Safekeeping

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Article 68      Money and items brought in by defendants, obtained by defendants in the detention center, or delivered to them by outside parties shall be inspected and kept by the detention center on behalf of the defendants. However, defendants may be permitted to use their money or items inside the detention center under the circumstance that it is deemed necessary and does not adversely affect the order or security of the detention center. The money and items may also be reclaimed by other individuals as requested by the defendant.

Where an item in the preceding paragraph is perishable, dangerous or harmful, or unsuitable for storage, the detention center may notify the defendant and then destroy or discard the item or dispose it in other appropriate manners.

Money kept by a detention center on behalf of defendants shall be deposited in a dedicated account except for a certain amount of money which will be retained as the revolving fund.

The interest accrued from the funds in the dedicated account specified in the preceding paragraph shall be used for improving the welfare of defendants.

Regulations governing the delivery of money or items to defendants specified in the four preceding paragraphs, inspection, registration, safekeeping, use, destruction or discarding, disposal, return, review, use of interest accrued, amount of funds retained as revolving fund, and other requirements shall be prescribed by the Ministry of Justice.

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Outside parties may deliver money, food, necessities, or other properties approved by the

Article 69  
senior detention center official to defendants.

The inspections conducted by a detention center on money, food, necessities, or other properties sent by outside parties specified in the preceding paragraph may not exceed the necessary extent.

Where an item is deemed during inspection in the preceding paragraph to adversely affect the order or security of the detention center, its delivery may be limited or denied.

Regulations governing the means, time, number of times, types, amount, quantity, limitations and restrictions, and other requirements for the delivery of money, food, necessities or other properties specified in the three preceding paragraphs shall be prescribed by the Ministry of Justice.

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Article 70      A detention center should return money, food, and items delivered by outside parties in accordance with the preceding article if the sender or sender's address is not clear, or the defendant refuses to accept it. Where they cannot be returned and remain unclaimed six months after announcement, they shall be turned over to the national coffers, destroyed, or discarded.  
A detention center may destroy or discard items that are perishable, dangerous, harmful, or unsuitable for storage while awaiting collection or during the announcement period in the preceding paragraph.

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Article 71      Where a detention center discovers while conducting inspections money or items held by a defendant without permission, the detention center may turn them over to the national coffers, destroy or discard them, or take other appropriate actions in view of the circumstances. The same shall apply to money or items with unknown owners.

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Article 72      Money or items kept by a detention center on behalf of a defendant shall be returned to the defendant upon his/her release. Where the defendant fails to reclaim the money or item, the detention center shall notify the defendant and specify a deadline for collection.

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Article 73      A detention center shall notify the successor of a deceased defendant to claim the money and items left by the defendant before a specified deadline.  
Where there are multiple successors, the detention center is only required to notify one such individual or allow one such individual to collect the property.  
Where the existence of a successor or his/her address is unknown and cannot be notified, the detention center shall post a public announcement and specify a deadline for collection.

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Article 74      Where a defendant has any of the situations described in the subparagraphs below and fails to apply for the return of money or items left over by him/her at the detention center, the money or items shall be turned over to the national coffers, destroyed, discarded, or disposed by other appropriate means within six months from the date specified in each subparagraph below:  
1. Where the defendant is released; the six-month period starts counting from the deadline specified in the notification under Article 72.  
2. Where the defendant escapes; the six-month period starts counting from the date of escape.  
3. Where the defendant is temporarily released in accordance with Paragraph 1 of Article 22 but fails to report in accordance with Paragraph 2 of the same article; the six-month period starts counting from the final date for reporting.  
4. Where the defendant is deceased; the six-month period starts counting from the deadline for collection specified in the notification or public announcement under Paragraph 1 or Paragraph 3 of the preceding article.  
A detention center may destroy, discard, or dispose by other appropriate means items that are perishable, dangerous, harmful, or unsuitable for storage while awaiting collection or during the notification or announcement period specified in the preceding paragraph.

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## Chapter 10 Rewards, Punishments and Indemnification

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Article 75      Defendants should be rewarded in accordance with rules and regulations, and rewards may also be meted out for any of following behaviors:  
1. Reported another defendant's attempted escape or act of violence, or

- plans for escape or act of violence.
2. Saved a life or captured an escapee.
3. Made a contribution in urgent matters during a natural disaster, incident, or an epidemic.
4. Outstanding work performance.
5. Special contribution which enhances the reputation of the detention center.
6. Special design for work techniques, products, machines, equipment, sanitation, medicine, etc. which is deemed as useful.
7. Insightful suggestions on improving the management of the detention center.
8. Other outstanding behavior that merit rewards.

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Article 76 Rewards specified in one or several subparagraphs below may be granted for behaviors specified in the preceding article:

1. Public commendation.
2. Issuance of a certificate of merit.
3. Increasing the number of visits permitted.
4. Giving a proper amount of money or a prize.
5. Other special rewards.

Regulations governing the criteria for rewards in the preceding paragraph, the types, recipients, implementation methods, procedures, and other requirements for special rewards in Subparagraph 5 shall be prescribed by the Ministry of Justice.

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Article 77 A detention center may not punish a defendant unless pursuant to this Act or other laws. A defendant may not be punished twice for the same incident.

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Article 78 Where a defendant has acted in a manner that adversely affects the order or security of the detention center, the detention center may mete out punishments under one or several subparagraphs below:

1. Reprimand.
2. Suspension of delivery of food from outside parties for one to three days.
3. Suspension of defendant' s own purchases of non-essential daily items for three to ten days.
4. Transfer to a housing area for rule breakers for seven to twenty days.

Regulations governing the action patterns that adversely affect order or security of the detention center in the preceding paragraph, the type and duration of punishment, management, limitations and prohibitions in a housing area for rule breakers, and other requirements shall be prescribed by the Ministry of Justice.

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Article 79 Before a detention center metes out punishment pursuant to this Act or other laws, it shall give the defendant an opportunity to express his/her opinions and inform the defendant of the facts of violation and the punishment imposed.

Where the defendant' s violation is minor or evidently forgivable, the punishment may be waived or postponed.

Where the defendant contracts a disease or where there are other special reasons, the punishment may be suspended.

If deemed necessary, a detention center may segregate a defendant from other defendants for the investigation of the defendant' s alleged violation. However such segregation may not last more than twenty (20) days.

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Article 80 Where the punishment is waived or postponed in accordance with Paragraph 2 of the preceding article, if the punished defendant has shown remorse for more than one month, the punishment may be revoked.

Where the punishment is suspended in accordance with Paragraph 3 of the preceding article, the execution of the punishment may continue after the reason for suspension ceases to exist. However, if the punishment is suspended for more than six months, it shall no longer be executed.

Where a punished defendant has shown remorse in the execution of the punishment, the punishment may be terminated.

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Article 81 Where a defendant damages utensils, finished products, materials, or other objects intentionally or due to gross negligence, the defendant

shall pay indemnification for the damages.  
Where the defendant fails to pay indemnification specified in the preceding paragraph, the detention center may deduct the amount from defendant's money under safekeeping or labor wage.

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## Chapter 11 Petition, Complaint and Litigation

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Article 82 A detention center's execution of disposition or management measure on a defendant shall not be suspended in response to the filing of a petition or complaint. However, where the detention center deems it necessary, it may suspend the execution.

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Article 83 A detention center shall not render discriminatory treatment or unreasonable punishment in response to a defendant's petition, complaint, or initiation of legal remedy.

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Article 84 A defendant may file a written or verbal petition to the detention center, inspection panel, or other inspectors.  
A detention center shall set up an opinion box at an appropriate place for defendants to file petitions or voice opinions.  
A detention center shall handle the petitions or opinions of defendants in an appropriate manner.

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Article 85 Where a defendant has one of the following situations while in detention, the defendant may file a written or verbal complaint to the detention center:

1. The defendant disagrees with the disposition or management measure of the detention center, believing it undermines his/her personal rights and interests.
2. The detention center refuses the defendant's request made in accordance with this Act or does not render a decision on the request within two months of the request and the defendant believes that his/her rights or legal interests are damaged.
3. Disputes involving payment of property arising from the detention based on public laws.

Complaints associated with disposition or management measure under Subparagraph 1 of the preceding paragraph or for denied requests under Subparagraph 2 or Subparagraph 3 of the preceding paragraph shall be filed within ten (10) days starting from the next day following defendant's receipt or awareness of the disposition or management measure. Complaints associated with the failure to render a decision on a request under Subparagraph 2 or Subparagraph 3 of the preceding paragraph shall be filed within ten (10) days starting from the next day following the elapse of two months after the defendant made the request.

Where the detention center deems the defendant's complaint to have merit, it shall immediately suspend, revoke, or change the original decision or execution of disposition or management measure or render a decision based on the defendant's request or complaint.

When the respondent of a disposition or management measure rendered in a manner other than writing has legitimate reasons to request the disposition or measure be rendered in a written format, the detention center may not refuse such a request.

The aforementioned document shall specify the reasons, remedies available, deadline for requesting remedies, and authority-in-charge.

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Article 86 A defendant may appoint a lawyer to act as his/her agent for filing complaints in accordance with the preceding article and initiating legal remedy in accordance with Paragraph 2 of Article 102. The lawyer shall provide a power of attorney to the detention center or the court.

With approval of the detention center or the court, the defendant or the agent may be present with an assistant.

Where the detention center or the court deems it necessary, it may order the defendant or the agent to be present with an assistant.

Where the detention center or court deems the qualifications of assistant specified in the two preceding paragraphs to be unfit, it may revoke the approval for the assistant or prevent the assistant from making statements.

Statements made by the assistant to which the defendant or agent does not immediately object shall be regarded as their own statements.

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Article 87 A detention center shall set up a complaint review panel (hereinafter referred to as the "review panel" ) to handle complaints. The review panel shall have nine members which must be approved by the supervisory authority. The review panel shall be composed of three representatives assigned by the director of detention center and six scholars, experts, or impartial community members. A member assigned by the detention center director shall serve as the chair. Neither gender shall constitute less than one-third of all members.

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Article 88 Where a complaint is filed in a written format, the complainant shall fill out a complaint form, state thereon the following information, and then sign or affix a seal on the form:

1. Name of the complainant; the name and address of the appointed agent or assistant, if applicable.
2. Facts of the complaint and the time of occurrence.
3. Reasons for filing the complaint.
4. Date of the complaint.

Where a complaint is filed verbally, a complaint form must be filled out by a detention center personnel on behalf of the complainant. After the complaint form is read to the complainant or reviewed by the complainant to confirm its contents, the complaint form shall be signed or sealed by the complainant.

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Article 89 Where the review panel deems the complaint form non-conforming with the prescribed formality but the deficiency may be amendable, it shall notify the complainant to complete an amendment within five (5) days.

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Article 90 Meetings of the review panel shall be convened only if more than half of the total members attend the meeting. Decisions shall be made only with the consent of more than half of the members present in the meeting. Where the consenting and dissenting votes are the same, the decision shall be made by the chair. When the review panel makes a decision, the number of recused members will not be included in the calculation of the number of members in attendance.

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Article 91 A review panel member having any of the following situations should recuse himself/herself in a complaint case and may not participate in voting on a decision:

1. The review panel member is or was the spouse, blood relative within fourth degree of kinship, relative-in-law within third degree of kinship, parent, or family member of the complainant.
2. The review panel member is or was the agent, defense attorney, or assistant of the complainant.
3. The review panel member is the complainant or the subject of complaint, or was the subject of a complaint previously filed by the complainant.

Where there are specific facts showing that the review panel member may be biased in regards to the complaint, the complainant may apply to the review panel for recusal of the member from the case by citing reasons and facts.

The application in the preceding paragraph shall be determined by the review panel. Where the complainant disagrees with the review panel's decision to reject the application, the complainant may file a request to the supervisory authority for review and decision within five (5) days. Except where there is a legitimate reason, the supervisory authority shall take appropriate actions within ten (10) days.

Where the complainant disagrees with the supervisory authority's decision in its review, it may only state his/her objection when initiating an administrative litigation against the substantial decision. Where a review panel member has a situation described in Paragraph 1 but fails to recuse himself/herself and the complainant has not applied for the member's recusal, the detention center should order the recusal of the member based on its authority.

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Article 92 The complainant may withdraw a complaint after filing it but before a decision is delivered to the complainant. Where a complaint is withdrawn, the complainant may not file another complaint based on the same reasons

and facts.

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- Article 93      The review panel shall render a decision within twenty (20) days starting from the next day following the acceptance of the complaint. Where necessary, the review period may be extended for ten (10) days and the complainant shall be notified.  
Where a notice for amendment is issued in accordance with Article 89, the period in the preceding paragraph shall be calculated from the next day following the receipt of amendment by the review panel.  
Where the review panel fails to reach a decision before the stated deadline, the original disposition shall be deemed as revoked.
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- Article 94      The review panel shall notify the complainant, appointed agent, and assistant to attend and state opinions when reviewing a complaint.  
Where the complainant is being housed at another institution, the complainant's statement may be presented in a written format, by video or audio, video conference, telephone, or other means.  
Where statements in the preceding paragraph are presented in a manner other than written format, the detention center shall make a record and ask the complainant to sign or affix seal thereon after the statement is read to the complainant or reviewed by the complainant to confirm its contents. Where the complainant refuses to sign or affix seal thereon, his/her reasons for refusal should be documented. Where the complainant objects to the record, the record should be corrected.
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- Article 95      The complaint under review may not contain information on offenses, term of imprisonment, number of offenses, or previous violation records which were unrelated to the complaint.
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- Article 96      The review panel should investigate evidence based on its vested authority and shall not be bound by the claims of the complainant. It shall pay attention to all matters that are favorable and unfavorable to the complainant.
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- Article 97      The complainant may request the review panel to investigate facts and evidence in the complaint process. Where the review panel deems the investigation unnecessary, it shall specify the reasons for not conducting an investigation in the complaint decision.
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- Article 98      The review panel should produce meeting minutes.  
The meeting minutes in the preceding paragraph shall include the summary of statements made by those present in the meeting and the documents and evidences they provided. Where a member has different opinions on the decision made in the review, such opinions may be included in the minutes record if so requested by the dissenting member.
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- Article 99      The detention center shall render a decision to reject the complaint if the review panel deems that complaint meets one of the following conditions:
1. The complaint does not concern matters specified in Paragraph 1 of Article 85.
  2. The complaint is filed past the deadline specified in Paragraph 2 of Article 85.
  3. The complaint does not conform to the prescribed formality and the deficiency is not amendable or the complainant is notified to make amendment in accordance with Article 89 but fails to do so within the prescribed period.
  4. The complaint is filed based on the same reasons and facts for a complaint for which a decision has been made or a complaint that had been withdrawn.
  5. The complainant is not the recipient of disposition or management measures specified in Subparagraph 1, Paragraph 1 of Article 85 or the person making the request specified in Subparagraph 2 or Subparagraph 3, Paragraph 1 of Article 85.
  6. The detention center has already suspended, revoked, or changed the original disposition or execution of disposition or management measure or has rendered a decision based on the defendant's request or complaint in accordance with Paragraph 3 of Article 85.
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Article 100 Where the review panel deems the complaint to have merit, it shall suspend, revoke, or change the original disposition or execution of disposition or management measure or render a decision based on the defendant's request or complaint. However, the review panel must not make changes or impose disposition or management measure that is more unfavorable to the complainant.

Where the review panel deems a complaint meritless, the detention center shall render a decision to dismiss the complaint.

Where the reason for the original disposition or management measure is inappropriate but such disposition or management measure is justified based on other reasons, the complaint shall be deemed meritless.

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Article 101 A detention center should make a decision based on the decision rendered by the review panel in accordance with the two preceding articles. The complaint decision shall specify the following particulars:

1. The name, date of birth, address, and ID number of the complainant.
2. The name and address of the appointed agent or assistant, if applicable.
3. Main text, facts and reasons; Facts may be omitted if a decision is rendered to dismiss the complaint.
4. Where a suit may be filed in a court in accordance with this Act, the remedial measures, time period for filing, and authority-in-charge shall be specified.
5. The decision-making authority and its chief.
6. The date.

The decision in the preceding paragraph shall be delivered to the complainant and its appointed agent; a copy shall be delivered to the supervisory authority and the court that issues the detention order or the prosecutor.

After receiving the decision specified in the preceding paragraph, the supervisory authority shall carefully read its contents, and supervise the detention center to make improvement if it deems that there are deficiencies in the detention center's original disposition or management measure.

If the time period for filing administrative litigation noted in the complaint decision is erroneous, the detention center shall make correction and notify the parties concerned, and recalculate the statutory period starting from the delivery date of the correction notice.

Where the complaint decision does not contain information specified in Subparagraph 4 of Paragraph 2 or where there is an error in the information that is not corrected in accordance with the preceding paragraph that causes the defendant to miss the deadline for filing administrative litigation, an administrative litigation filed within three months from the delivery date of the complaint decision shall be deemed as filed within the statutory period.

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Article 102 Unless otherwise provided by special provisions, a defendant who disagrees with the ruling or disposition made by the court that issues the detention order or the prosecutor may file an interlocutory appeal or file a motion to reverse or amend the ruling, to which the provisions of Chapter XIII, Part 1 of the Code of Criminal Procedure on Decisions and Part IV on Interlocutory Appeal apply mutatis mutandis.

For disputes in connection with the disposition of prohibition or seizure made by a detention center in accordance with Paragraph 3 or Paragraph 4, Article 105 of the Code of Criminal Procedure, a defendant may file a written or verbal objection with the detention center before the original instruction of prohibition or seizure is cancelled. In such event, the detention center shall make a decision in three (3) days. Where the detention center deems the defendant's objection to have merit, it shall immediately suspend, revoke, or change the original disposition or render a decision based on the defendant's request or objection. If the detention center deems the objection meritless, it shall render a decision of objection dismissed.

Where the defendant disagrees with the decision of the detention center in the preceding paragraph, he/she should, within five (5) days, request the prosecutor (if his/her case is in investigation proceeding) or the court that issues the detention order (if his/her case is in trial

proceeding) to revoke or change the detention center's decision by way of a disposition or ruling. The defendant may not object to the ruling of the court.

Unless otherwise stipulated by law, administrative litigation for public law disputes derived from the detention of defendants shall be filed in accordance with this Act.

Where a defendant files a complaint in accordance with this Act and disagrees with the decision rendered, the defendant may file a suit specified in any of the following subparagraphs with the administrative litigation division of the district court at where the detention center is located:

1. Where the defendant believes that the detention center's disposition has exceeded the necessary extent for achieving the purpose of detention and unlawfully infringes upon his/her basic rights protected by the Constitution, and where such infringement is evidently significant, the defendant may file a suit to revoke the disposition.

2. Where the defendant believes that the disposition in the preceding subparagraph is illegal and the status quo ante cannot be restored or is extinguished due to the execution of the disposition, but the defendant has a legal interest in obtaining a declaratory judgment from the court, the defendant may file a suit for court declaration of illegal disposition.

3. Where the detention center rejects the defendant's request made in accordance with this Act or fails to render a decision on the request within two months of the request and the defendant believes that his/her rights or legal interests are harmed; or where there is a dispute involving payment of property arising from the detention based on public laws, the defendant may file a payment suit. The same shall apply where the defendant believes that the detention center's management measure has exceeded the necessary extent for achieving the purpose of detention and unlawfully infringes upon his/her basic rights protected by the Constitution, and where such infringement is evidently significant. The suits filed in accordance with the subparagraphs in the preceding paragraph shall be filed in a written format.

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Article 103

The suit specified in the preceding article may not be filed in combination with other suits, nor may it claim for damages.

The suits specified in the preceding article shall be filed within the thirty (30) days after the delivery of the complaint decision.

Where the review panel fails to render a decision within twenty (20) days or where a decision is not made after the review period has been extended for more than ten (10) days, the defendant may file a suit specified in Subparagraph 2 or Subparagraph 3, Paragraph 5 of the preceding article after the deadline for a decision.

However, a suit may not be filed after six months have elapsed since the expiry of the deadline for a decision.

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Article 104

Where a defendant submits a written suit to a senior detention center official within the filing period or submits a request to withdraw a suit to a senior detention center official before the court renders a judgment, it shall be deemed as a suit filed within the filing period or a withdrawn before the court renders a judgment.

Where a defendant cannot prepare a written suit, a detention center personnel shall prepare it for the defendant.

Once a senior detention center official receives a written suit or request to withdraw a suit, he/she shall note the time, date, month, and year of receipt and forward it to the court as quickly as possible.

Where a defendant's written suit or a request to withdraw a suit is not filed through a senior detention center official, the court clerk should notify the senior detention center official immediately after receiving the written appeal or the request to withdraw a suit.

A detention center shall deliver documents and evidences related to the complaint to the court based on its authority or in accordance with the court notice.

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Article 105

Suits filed in accordance with Article 102 shall be tried through summary proceeding. Unless otherwise stipulated in this Act or other laws, the provisions of the Administrative Litigation Act on summary proceeding apply to such suits, and their court costs will be reduced by half.

The judgment in the preceding paragraph may be rendered without oral arguments whereas facts, evidences, and reasons stated in the complaint decision may be cited. Where there are important matters regarding the case that are not included in the complaint decision, or where the defendant' s claims or evidences favorable to the defendant are not accepted, the reasons shall be given in the judgment.

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## Chapter 12 Release and Protection

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- Article 106 A detention center shall not release any defendant unless with the release notice of the court or the prosecutor.  
The format of the notice in the preceding paragraph shall be prescribed by the Ministry of Justice.
- Article 107 A detention center shall immediately release the defendant upon receiving the notice in the preceding article. However the detention center should verify the identity data on the defendant created upon his/her admission before releasing the defendant.  
If a court or prosecutor releases a defendant in court, they should notify the detention center immediately.
- Article 108 When a defendant is transferred to a prison, the defendant' s photograph, identification sheet, counseling records and reward and punishment records shall be attached as reference.
- Article 109 When a defendant leaves the detention center, the detention center should consider his/her health status and instruct the defendant to prepare suitable clothing and traveling expenses.  
Where the defendant is unable to prepare sufficient clothing or traveling expenses in the preceding paragraph, the detention center may provide the necessities or notify suitable public interest group to consider providing assistance.
- Article 110 Before releasing defendants who are old and fragile, gravely ill, or physically or mentally disabled and cannot take care of themselves, a detention center shall notify family members or individuals deemed appropriate by the defendant to pick up the defendant. Where such individuals cannot be reached or refuse to pick up the defendant after receiving a notice, the detention center should submit related documents and notify the social welfare authority of the municipal or county (city) government at the location of the defendant' s household registration to arrange a transfer to other placement facilities or make other necessary arrangements.  
Where there are individuals, legal entities, organizations, or authorities (agencies) that should be notified before the release of a defendant in accordance with other regulations, the detention center shall comply accordingly.

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## Chapter 13 Death

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- Article 111 Where a defendant dies in the detention center, the detention center shall immediately notify his/her family member or nearest relative, defense attorney, prosecutor and court, and report to the prosecutors' office which shall assign a prosecutor to examine the body. Where there are multiple family members or nearest relatives, the detention center is only required to notify one such individual.  
Where the detention center has knowledge that the defendant in the preceding paragraph has appointed a lawyer and the matters delegated to the lawyer have not been completely processed, the lawyer shall also be notified.  
Under conditions specified in Paragraph 1, the detention center shall submit relevant information and report to the supervisory authority.
- Article 112 The body of a deceased defendant shall be examined in accordance with the preceding article. Where it is not collected within seven (7) days after a notification is sent or where a notification cannot be sent, the body may be cremated and placed in an ash storage facility.

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## Chapter 14 Supplementary Provisions

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| Article 113 | Transportation expenses payable by a defendant in accordance with Paragraph 2 of Article 54 and Paragraph 4 of Article 56 that are paid by the detention center in advance may be deducted from the defendant's money under safekeeping or labor wage. Where there are no deductible funds, the detention center shall issue a written administrative disposition to order the defendant to repay the expenses within thirty (30) days. Where the defendant fails to do so, the detention center may transfer the case to administrative enforcement.  |
| Article 114 | <p>Complaints filed before the implementation of the amendment of this Act on December 10, 2019 for which a decision has not been made shall be processed in accordance with the provisions after the implementation of the amendment.</p> <p>For incidents occurred before the implementation of the amendment of this Act on December 10, 2019 for which a complaint may be filed and the statutory period for legal remedy has not expired, a complaint may be filed in accordance with the provisions of this Act within ten (10) days starting from the next day following the implementation date of the amendment.</p> <p>Where situations specified in Subparagraph 2 and Subparagraph 3, Paragraph 1 of Article 85 occurred before the amendment of this Act on December 10, 2019 and the complaint filing period calculated in accordance with Paragraph 2 of Article 85 has not expired, the complaint filing period shall be set to 10 days starting from the next day following the implementation date of the amendment.</p> <p>Constructive interlocutory appeal cases in accordance with the Judicial Yuan interpretation No. Shi-Zi-720 that are pending in court but are not yet concluded before the implementation of the amendment of this Act on December 10, 2019 shall be processed by the original court in accordance with the original Judicial Yuan interpretation No. Shi-Zi-720 and tried in accordance with the Code of Criminal Procedure.</p> <p>For cases where constructive interlocutory appeal may be filed in accordance with the interpretation of the Judicial Yuan No. Shi-Zi-720 that occurred before the implementation of the amendment of this Act on December 10, 2019, a suit may be filed with the administrative litigation division of the jurisdictional district court within thirty (30) days from the next day following the implementation date of the amendment.</p> |
| Article 115 | The provisions of this Act apply mutatis mutandis to defendants detained in accordance with the Military Justice Law.  |
| Article 116 | The Enforcement Rules of this Act shall be stipulated by the Executive Yuan together with the Ministry of Justice.   |
| Article 117 | This Act shall be implemented six months after the date of promulgation.   |