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Probation Supervision Act

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RT I 1998, 4, 62
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Amended by the following acts

Passed	Published	Entry into force
12.06.2002	RT I 2002, 56, 350	01.09.2002
19.06.2002	RT I 2002, 64, 390	29.07.2002
consolidated text on paper RT	RT I 2002, 82, 478	
07.04.2004	RT I 2004, 27, 176	01.05.2004, partially 01.07.2005
22.02.2005	RT I 2005, 15, 85	01.01.2006
27.09.2006	RT I 2006, 46, 333	01.01.2007
20.03.2008	RT I 2008, 17, 118	01.06.2008
14.04.2010	RT I 2010, 17, 93	10.05.2010
16.06.2010	RT I 2010, 44, 258	19.07.2010, partially 01.01.2011
27.01.2011	RT I, 23.02.2011, 2	05.04.2011
30.05.2012	RT I, 15.06.2012, 2	01.06.2013
13.06.2012	RT I, 10.07.2012, 2	01.04.2013
05.12.2012	RT I, 20.12.2012, 3	01.01.2013, partially 01.04.2013

Chapter 1 GENERAL PROVISIONS

§ 1. Probation supervision

(1) In probation supervision, the behaviour of probationers and their performance of obligations imposed on them by a court or prosecutor are monitored and probationers are assisted in social adjustment with a view to deterring them from committing criminal offences.
[RT I 2004, 27, 176 - entry into force 01.05.2004]

(2) The Minister of Justice may establish by a regulation the requirements and procedure for probation supervision.
[RT I, 20.12.2012, 3 - entry into force 01.01.2013]

§ 2. Probationer

A probationer is:

- 1) a convicted offender whom a court has placed under the supervision of a probation supervisor pursuant to the procedure provided by law;
- 2) a convicted offender whose imprisonment has been substituted by community service or addiction treatment or partially substituted by complex treatment of sex offenders;
[RT I, 15.06.2012, 2 - entry into force 01.06.2013]
- 3) a person with regard to whom criminal proceedings have been terminated and who has been imposed community service by a prosecutor or court;
[RT I 2004, 27, 176 - entry into force 01.05.2004]
- 4) a suspect or accused in the case of whom taking into custody applied as a preventive measure has been substituted by to submit to electronic surveillance.
[RT I 2010, 44, 258 - entry into force 01.01.2011]

§ 3. Probation supervisor

(1) A probation supervisor is a probation officer or a voluntary probation worker.

(2) Probation supervision functions may also be assigned to a non-profit association (probation supervision association), which supervises probation as one of the activities specified in its articles of association.

(3) In addition to probation supervisors, a prison director may also assign probation supervision functions to other persons in service of prison who meet the requirements for probation supervisors.
[RT I 2008, 17, 118 - entry into force 01.06.2008]

§ 4. Right of probation supervisors to obtain information

[RT I, 20.12.2012, 3 - entry into force 01.01.2013]

Probation supervisors have the right to obtain information necessary for the performance of probation supervision functions from agencies and persons.
[RT I, 20.12.2012, 3 - entry into force 01.01.2013]

Chapter 2 PROBATION SUPERVISION DEPARTMENTS

[Repealed -RT I, 20.12.2012, 3 - entry into force 01.01.2013]

§ 5.–§ 12.[Repealed - RT I, 20.12.2012, 3 - entry into force 01.01.2013]

Chapter 3 PROBATION OFFICERS

§ 13. Requirements for probation officers

(1) Any person of appropriate moral character for probation supervision who has completed relevant applied or other higher education and has passed an examination for probation officers may be appointed a probation officer.

(2) The Minister of Justice may establish additional requirements for the qualifications of probation officers, heads of divisions of probation departments and heads of probation supervision departments.
[RT I 2004, 27, 176 - entry into force 01.05.2004]

(3) The Minister of Justice may establish by a regulation the duties of probation officers in the case of which the officials performing such duties need not have the applied or other higher education specified in subsection (1) of this section.
[RT I, 20.12.2012, 3 - entry into force 01.01.2013]

§ 14. Appointment of probation officers to office

Probation officers are appointed to office with a probationary period of six months by the director of a prison.
[RT I 2008, 17, 118 - entry into force 01.06.2008]

§ 15. Duty to supervise

(1) Probation officers are required to supervise trainee probation officers and voluntary probation workers on the orders of the head of the probation supervision department. No probation officer is required to supervise more than two trainee probation officers and five voluntary probation workers at the same time.

(2) [Repealed - RT I, 20.12.2012, 3 - entry into force 01.01.2013]

§ 15¹. Notification obligation

An officer supervising probation shall notify of criminal offences and misdemeanours which become known to him or her in the course of his or her professional activities.
[RT I, 20.12.2012, 3 - entry into force 01.01.2013]

§ 16. Compensation for proprietary damage

The state shall compensate probation officers and their family members for any intentional proprietary damage, which they suffer due to performance of the duties of probation officers, pursuant to the procedure provided for in § 143 of the Imprisonment Act. Damages shall be collected from the person at fault.
[RT I 2008, 17, 118 - entry into force 01.06.2008]

Chapter 4

VOLUNTARY PROBATION WORKERS

§ 17. Voluntary probation workers

- (1) A voluntary probation worker is a person who performs probation supervision duties in his or her free time without receiving remuneration.
- (2) Voluntary probation workers are supervised by probation officers.
- (3) Any person who has expressed the desire and is suited to be a voluntary probation worker may be a voluntary probation worker. Upon assessing the suitability of an applicant, his or her personal characteristics, education, personal history and professional activities are examined on the basis of documents and an interview.
- (4) Judges or prosecutors or staff employees of the courts, the Prosecutor's Office, the police or penal institutions who are public servants shall not act as voluntary probation workers.

§ 18. List of voluntary probation workers

[RT I 2002, 64, 390 - entry into force 29.07.2002]

- (1) Any person who is entered in a list of voluntary probation workers by the head of the probation supervision department may act as a voluntary probation worker.
- (2) The lists of voluntary probation workers of departments are maintained by the heads of the probation supervision department, and the national list of voluntary probation workers is maintained by the Ministry of Justice.
- (3) A list of voluntary probation workers shall set out the given name, surname, residence, telephone number and place of employment of the voluntary probation workers. If a voluntary probation worker prefers to work with a particular group of persons, a corresponding notation shall be made in the list.
- (4) Persons who breach the duties of probation supervisors, prove unsuitable for voluntary probation work in any other way or repeatedly refuse to perform probation supervision duties without good reason shall be eliminated from the lists of voluntary probation workers.
- (5) [Repealed - RT I 2002, 64, 390 - entry into force 29.07.2002]

§ 19. Training of voluntary probation workers

The probation supervision department shall ensure the training of voluntary probation workers prior to their commencing performance of probation supervision duties.

[RT I 2004, 27, 176 - entry into force 01.05.2004]

§ 20. Compensation for expenses of voluntary probation workers

A voluntary probation worker shall be compensated for the expenses of probation supervision, but not in an amount exceeding 10 per cent of the remuneration paid to a probation officer.

Chapter 5

PROBATION SUPERVISION ASSOCIATIONS

§ 21. Probation supervision associations

- (1) On the basis of an administration contract, the Minister of Justice may assign a portion of probation supervision functions to a suitable non-profit association within the jurisdiction of a court, which has expressed the desire to perform such functions.
- (2) Probation supervision associations shall ensure co-ordinated and effective probation supervision.
- (3) The provisions applicable to probation officers in supervising probation apply to members of probation supervision associations who are engaged in probation supervision.
- (4) A probation supervision association shall appoint members of the association who shall perform the duties of the head of a probation supervision department or of the heads of its divisions in supervising probation.

(5) The Minister of Justice shall decide the compensation for expenses and the grant of financial support to probation supervision associations on the basis of the annual State Budget Act.

(6) The activities of a probation supervision association in performing probation supervision functions and in using financial support received from the state for such purpose shall be monitored by the head of the probation supervision department of the same jurisdiction and the Minister of Justice.

(7) The head of a probation supervision department and the Minister of Justice may give mandatory instructions to a probation supervision association in performing probation supervision functions. In the event of unsatisfactory performance of probation supervision functions or failure to comply with mandatory instructions, the Minister of Justice may terminate an administration contract entered into with the probation supervision association pursuant to the procedure provided for in the administration contract.

(8) The state promotes and supports supervision of probation by private associations and training of their members.

§ 22. Meeting of representatives of probation supervision associations

The Minister of Justice shall hold a meeting of representatives of probation supervision associations at least once a year to discuss issues relating to the financing of the activities and in-service training of probation supervision associations, substantive issues and the development potential of probation supervision.

Chapter 6 PREPARATION FOR PROBATION SUPERVISION

§ 23. Application for pre-trial report

(1) The head of the probation supervision department of residence of a suspect, accused or convicted offender shall appoint on the application of a court, prosecutor or prison a probation officer to whom he or she assigns the task of preparation of a pre-trial report.

(2) A probation officer shall prepare a pre-trial report on a suspect, accused or convicted offender pursuant to § 24 of this Act and submit it to the court, prosecutor or prison within the period specified by them.
[RT I 2006, 46, 333 - entry into force 01.01.2007]

§ 24. Pre-trial report

(1) A probation officer shall prepare a pre-trial report on a suspect, accused or convicted offender, which shall contain a summary of the personal characteristics and social circumstances of the suspect or the accused, and an opinion on the probationary period and selected obligations to be applied with regard to the suspect, the accused or the convicted offender and the term of application thereof.

(2) A pre-trial report shall contain biographical facts and a psychological-social prognosis of a suspect, accused or convicted offender.

(3) A probation officer shall meet the suspect or the accused, persons close to him or her, and other persons to collect information necessary for the preparation of a pre-trial report, examine the information from state and local government agencies and health care providers on the suspect or the accused, and request that the legal representative, head of the educational institution and employer of the suspect or the accused submit information on the behaviour and academic progress of the suspect or the accused.
[RT I, 20.12.2012, 3 - entry into force 01.01.2013]

(4) Biographical facts of a suspect or accused shall be based on verified information and shall contain references to sources which confirm the information presented in a pre-trial report.

(5) [Repealed - RT I, 20.12.2012, 3 - entry into force 01.01.2013]

Chapter 7 SUPERVISION OF PROBATION

§ 25. Assignment of probation supervisor

The head of a probation supervision department shall, on the basis of a court judgment or the order of a prosecutor sent for enforcement to the probation supervision department, assign a probationer to a specific probation supervisor, taking into account the specialisation and work load of the probation supervisor. If possible, the supervision of probation shall be assigned to the probation officer who prepared the pre-trial report.
[RT I 2004, 27, 176 - entry into force 01.05.2004]

§ 26. Supervision of probation

(1) In supervising probation, probation supervisors shall monitor the performance of obligations specified in court orders, assist and advise probationers in the performance of such obligations and provide assistance in the social adjustment of probationers.

(2) Probationers shall receive assistance in finding employment, admission to an educational institution and a place of residence, and in the resolution of other personal problems.

(3) Probation supervisors shall promote probationers' ability to cope independently in everyday life.

(4) In supervising probation, probation supervisors shall respect the dignity of probationers.

(5) A state agency database shall be established for the processing of data necessary for probation supervision. [RT I 2004, 27, 176 - entry into force 01.05.2004]

§ 26¹. Control over consumption of substances prohibited for probationers

(1) If a court has imposed an obligation on a probationer not to consume alcohol or narcotics, a probation supervisor has the right to check the probationer and determine the consumption of alcohol and narcotics. Determination of the consumption of alcohol or narcotics shall be based on the procedure specified in §§ 7²⁴-7²⁷ of the Police and Border Guard Act.

(2) If a probation officer does not deem it necessary to collect other data and the probationer does not require determination of blood alcohol content or exhaled breath alcohol concentration or determination of consumption of narcotics by testing of blood or biological liquids, only an indicating meter may be used and the description of the signs of consumption of alcohol or narcotics exhibited by the person.

(3) A probation officer shall prepare a report on the use of an indicating meter and presence or absence of signs of consumption of alcohol or narcotics exhibited by a person. The Minister of Justice shall establish by a regulation the format of the report on the use of an indicating meter and signs exhibited by a probationer which refer to the consumption of alcohol or narcotics.

(4) If a probationer demands determination of blood alcohol content or determination of consumption of narcotics by testing of blood or biological liquids, the probationer shall reimburse for the costs relating to taking, preservation and delivery of the blood or biological liquid samples (hereinafter *sample*) and testing thereof, unless the test result of the sample was negative. In such case the costs shall be covered by a prison.

(5) If a sample is taken at a health care provider, a probation supervisor or prison shall organise the delivery of the sample taken to a state forensic institution for testing and determination of consumption of alcohol or narcotics.

(6) Refusal by a probationer to be checked by an indicating meter, to go to a health care provider for giving a sample and give a sample at the health care provider is failure to submit to the supervision of a probation supervisor. In such case the probation supervisor shall treat the activities of the probationer as a violation of the supervision requirement pursuant to clause 75 (1) 3) of the Penal Code.

[RT I, 20.12.2012, 3 - entry into force 01.01.2013]

§ 27. Supervision plans

[RT I 2006, 46, 333 - entry into force 01.01.2007]

(1) After the entry into force of a court order, a probation supervisor shall assess the criminogenic risks of the probationer and prepare, on the basis thereof, a plan for the performance of the obligations specified in the court order and for the supervision of probation (hereinafter *supervision plan*).

[RT I, 20.12.2012, 3 - entry into force 01.01.2013]

(2) Probationers shall be involved in the preparation of supervision plans.

[RT I 2006, 46, 333 - entry into force 01.01.2007]

(3) Probation supervisors shall assess the criminogenic risks of probationers at least once a year during the probationary period, make performance notations in the supervision plans and, if necessary, amend the supervision plans.

[RT I 2008, 17, 118 - entry into force 01.06.2008]

(4) [Repealed - RT I, 20.12.2012, 3 - entry into force 01.01.2013]

(5) Supervision plans and amendments and notations thereto are submitted to a court on demand of the court.

[RT I 2006, 46, 333 - entry into force 01.01.2007]

(6) A schedule of community service shall be prepared for a probationer who has been imposed community service.

[RT I 2006, 46, 333 - entry into force 01.01.2007]

§ 28. Social group work

Probation supervision may also take the form of social group work.

§ 29. [Repealed - RT I 2004, 27, 176 - entry into force 01.05.2004]

§ 30. Regular reports

(1) During probationary periods, probation supervisors shall prepare on probationers, whose criminogenic risks have not been assessed, regular reports which contain an assessment of the prior probation hitherto, an overview of the execution of the court judgement and performance of the supervision plan and any amendments to the supervision plan.

(2) A regular report shall be prepared at least once every six months.

(3) [Repealed - RT I, 20.12.2012, 3 - entry into force 01.01.2013]

(4) A regular report shall be submitted to the court on demand of the court.

(5) A regular report on probationers, who have been imposed community service, shall be prepared and submitted on demand of a court or Prosecutor's Office.

[RT I 2006, 46, 333 - entry into force 01.01.2007]

§ 30¹. Reports on termination of probation supervision

(1) Upon termination of probation supervision or performance of community service, a probation officer shall prepare a report which contains an overview of the whole probation period or performance of the community service obligation and compliance with supervisory requirements and obligations during the probationary period.

(2) [Repealed - RT I, 20.12.2012, 3 - entry into force 01.01.2013]

(3) The report shall be submitted to a court or Prosecutor's Office on demand thereof.

[RT I 2010, 44, 258 - entry into force 19.07.2010]

§ 31. Extraordinary reports

(1) A probation supervisor shall submit an extraordinary report on probationers in the cases specified in the Penal Code or the Code of Criminal Procedure.

[RT I 2010, 44, 258 - entry into force 01.01.2011]

(2) An extraordinary report shall contain information on the circumstances of the ascertained violation, a summary of the explanation of the probationer, the assessment by the probation officer of the probation period hitherto and a reasoned proposal of the probation officer to assign additional obligations, extend the term of supervision of conduct, change the type of sanctions applicable on minor probationers or enforce the punishment.

(2¹) An extraordinary report on violation by a suspect, accused or convicted offender of the obligation to submit to electronic surveillance shall contain information on the circumstances of the ascertained violation, a summary of the explanation of the probationer and a proposal of a probation officer for termination of the application of electronic surveillance and taking into custody or for termination of the application of electronic surveillance and application of imprisonment. The number of days during which a person was kept under electronic surveillance shall be annexed to the proposal for application of imprisonment.

[RT I 2010, 44, 258 - entry into force 01.01.2011]

(2²) If a probationer evades addiction treatment of drug addicts or complex treatment of sex offenders imposed on him or her, the probation officer who has ascertained the violation shall submit to a court a report which contains information on the circumstances of the violation, a summary of the explanation of the probationer and a proposal for termination of the addiction treatment or complex treatment and enforcement of the sentence of imprisonment.

[RT I, 15.06.2012, 2 - entry into force 01.06.2013]

(3) If the probationer evades the obligation of performing community service imposed on him or her, the probation officer who has ascertained the violation shall submit a report to a prosecutor which contains

information on the circumstances of the ascertained violation, the number of hours of community service performed and a summary of the explanation of the probationer.

(4) An extraordinary report submitted by a probation officer with the aim to relieve or cancel the obligations imposed on the probationer or extension or shortening of the term of electronic surveillance shall contain an assessment of the probation period hitherto and a reasoned proposal by the probation officer.

[RT I 2006, 46, 333 - entry into force 01.01.2007]

(5) An extraordinary report on probationers who have been imposed with community service shall be submitted to a court or prosecuting authority in order to suspend the running of the term due to an illness or family situation of the probationer or for a period during which the probationer is in compulsory military service, alternative service or reserve service. The report on suspension of the running of the term of community service shall contain information on the bases of the suspension and a proposal for the duration of the suspension.

[RT I, 10.07.2012, 2 - entry into force 01.04.2013]

§ 32. Replacement of probation supervisor

(1) A probation supervisor shall be replaced if:

- 1) the probation officer is released from office or is transferred to another probation supervision department;
- 2) the services of the probation officer have been suspended;
- 3) it is in accordance with the purpose and in the interest of probation supervision to replace the present probation supervisor;
- 4) the probationer's residence changes.

(2) Replacement of a probation supervisor is not required in the case specified in clause (1) 4) of this section if it is not necessary for achievement of the purpose of probation supervision and is not economically justified.

(3) Upon appointment of a new probation supervisor the provisions of § 25 of this Act shall apply.

(4) In the case the probationer's residence changes, the probation supervisor shall immediately submit to the court or Prosecutor's Office of the former residence of the probationer an application to send the judicial decision or the order of a prosecutor for enforcement to the probation supervision department of the new place of residence of the probationer.

[RT I 2004, 27, 176 - entry into force 01.05.2004]

Chapter 8 FINAL PROVISIONS

§ 33.–§ 35.[Omitted from this text.]

§ 36. Specifications of appointment of probation officers

(1) Until 31 December 1999, the Minister of Justice shall appoint persons who have completed the training approved by the Minister of Justice, passed the examination and have appropriate moral character required for probation supervision as probation officers.

(2) Persons selected on a competitive basis to participate in training shall have completed at least secondary education.

(3) Persons admitted to training shall be employed in the service as support staff of the court with a probationary period of three months.

(4) Persons who have completed training shall take the examination for probation officers before the examination board approved by the Minister of Justice.

(5) The Minister of Justice shall appoint persons who have passed the examination in probation supervision to the office of probation officer on a competitive basis.

(6) The Minister of Justice shall approve the procedure for hiring probation officers on a competitive basis.

(7) The Minister of Justice shall appoint persons who have successfully completed the competition as probation officers of the corresponding courts.

(8) In addition to their professional duties, probation officers shall participate in in-service training organised by the Ministry of Justice and, after one-year training, undergo evaluation which is arranged by an evaluation committee approved by the Minister of Justice.

(9) Until probation officers are appointed to office, the duties of probation officers shall be performed by the persons specified in subsection (3) of this section.

(10) The additional requirements for the qualifications of probation officers established on the basis of subsection 13 (2) of this Act shall not apply to the probation officers appointed to office before 1 May 2004. [RT I 2004, 27, 176 - entry into force 01.05.2004]

§ 36¹. Release of probation consultant from duties

As of 1 May 2004, probation officers shall be released from additional duties to act as probation consultants by a directive of the director of administration of the respective court. [RT I 2004, 27, 176 - entry into force 01.05.2004]

§ 37. Heads of probation supervision departments and divisions of probation supervision departments

(1) Until 1 January 2002, heads of probation supervision departments and heads of divisions of probation supervision departments shall be appointed by the Minister of Justice.

(2) Until 1 January 2002, the provisions of subsections 36 (2)–(6) of this Act apply to the appointment of heads of divisions of probation supervision departments.

(3) The heads of probation supervision departments appointed to office before 1 January 2006 shall be employed, with their consent, for a fixed term of office as of 1 January 2006. [RT I 2005, 15, 85 - entry into force 01.01.2006]

§ 37¹. Transfer of probation supervision departments to prisons

(1) Probation supervision departments of county courts are restructured and merged into probation supervision departments of prisons as of 1 June 2008. Merger of probation supervision departments and prisons shall be organized by the Minister of Justice.

(2) The provisions of subsection 115 (2) of the Public Service Act apply to public servants in probation supervision departments who continue service in positions on the staff of prisons or upon termination of their service relationship.

(3) Public servants of probation supervision departments whose functions and official titles do not change due to transformation of probation supervision departments into prison departments or whose functions do not change upon change of their official title, continue their service as of 1 June 2008 in prisons for an unspecified term.

(4) The Minister of Justice and directors of courts in county courts have the right to give directives before 1 June 2008 for release of public servants due to lay-off and make proposals to the State Secretary for announcement of a public competition to fill the positions on the basis of the structure and membership of the probation supervision departments. A proposal pursuant to subsection 116 (3) of the Public Service Act to an employee for transfer to another position shall be made by the Minister of Justice or, on the authorisation thereof, by the director of court of a county court or the prison director of a prison. [RT I 2008, 17, 118 - entry into force 01.06.2008]

§ 38. Application of probation supervision to offenders who are serving conditional sentences or are released on parole upon entry into force of Act

A person who, prior to the entry into force of this Act, has been given a conditional sentence or released on parole and whose probationary period has not expired by the time of entry into force of this Act shall be registered in the probation supervision department of his or her residence within one year after the entry into force of this Act.

§ 39. Entry into force of Act

This Act enters into force on 1 May 1998.