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LAW

CRIMINAL RECORD

OF THE 12TH NATIONAL ASSEMBLY, THE 5TH SESSION

Pursuant to the 1992 Constitution of the Socialist Republic of Vietnam, which has been amended and supplemented by Resolution No. 51/2001/QH10;

The National Assembly promulgates the Law on Judicial Records.

Chapter I

GENERAL PROVISIONS

Article 1. Scope of Regulation

This Law provides for the order and procedures for providing, receiving and updating judicial record information; making judicial records; organizing and managing judicial record databases; issuance of judicial record cards; state management of judicial records.

Article 2. Explanation of terminology

In this Law, the following terms shall be construed as follows:

1. *Judicial record* means a record of a person convicted of a criminal judgment or decision of a court which has taken legal effect, the judgment enforcement status and the prohibition of an individual from holding a position, establishing or managing an enterprise or cooperative in case an enterprise or cooperative the cooperative was declared bankrupt by the Court.
2. *Judicial record information on criminal records* means information about the convicted person; the offense, the applicable law provisions, the principal penalties, additional penalties, civil obligations in the criminal judgment, court costs; the date of judgment pronouncement, the court that has pronounced the judgment, number of the pronounced judgment; judgment enforcement status.
3. *Judicial record information on banning from holding posts, establishing or managing enterprises or cooperatives* means information about individuals banned from holding posts, establishing or managing enterprises or cooperatives; posts banned from holding positions, duration not allowed to be established, manage enterprises and cooperatives according to the Court's decision to declare bankruptcy.
4. *Judicial record card* means a card issued by an agency managing the judicial record database that is valid for proving that an individual has or does not have a criminal record; is prohibited or not prohibited from holding a post, establishes or manages an enterprise or cooperative in case an enterprise, the cooperative was declared bankrupt by the Court.

5. *Agencies managing judicial record databases* include the National Center for Judicial Records and provincial/municipal Justice Services.

Article 3. Purpose of judicial record management

1. Satisfying the requirements to prove whether or not an individual has a criminal record, whether or not he is prohibited from holding a position, establishing or managing an enterprise or cooperative in case the enterprise or cooperative is declared bankrupt by a court.
2. To record the remission of criminal records and create conditions for convicted persons to reintegrate into the community.
3. Supporting criminal proceedings and criminal justice statistics.
4. Supporting the management of personnel, business registration activities, establishment and management of enterprises and cooperatives.

Article 4. Principles of judicial record management

1. Judicial records shall only be made on the basis of legally effective court criminal judgments or decisions; the Court's decision declaring the enterprise or cooperative bankrupt has taken legal effect.
2. To ensure respect for the privacy of individuals.
3. Judicial record information must be provided, received, updated and processed fully and accurately in accordance with the order and procedures specified in this Law. The agency issuing the judicial record card shall be responsible for the accuracy of the information in the judicial record card.

Article 5. Subjects of judicial record management

1. Vietnamese citizens who are sentenced by legally effective criminal judgments of Vietnamese courts or foreign courts and extracts of judgments or criminal histories of convicts are provided by foreign competent agencies under international treaties on legal assistance in the criminal domain or on the principle of have it again.
2. Foreigners who are sentenced by Vietnamese courts with legally effective criminal judgments.
3. Vietnamese citizens and foreigners who are banned by Vietnamese courts from holding positions, establishing or managing enterprises or cooperatives in legally effective bankruptcy declaration decisions.

Article 6. Responsibilities for providing judicial record information

Courts, procuracies, civil judgment enforcement agencies, competent agencies under the Ministry of Public Security, judgment enforcement agencies under the Ministry of National Defense and relevant agencies and organizations shall be responsible for providing judicial record information completely, accurately and in accordance with the order. procedures for judicial record database management agencies in accordance with the provisions of this Law and other provisions of law.

Article 7. Right to request the issuance of judicial record cards

1. Vietnamese citizens and foreigners who have been or are residing in Vietnam have the right to request the issuance of their judicial record cards.
2. Procedure-conducting agencies may request the issuance of judicial record cards in service of investigation, prosecution and adjudication.
3. State agencies, political organizations and socio-political organizations have the right to request the issuance of judicial record cards in service of personnel management, business registration activities, establishment and management of enterprises and cooperatives.

Article 8. Prohibited acts

1. Illegally exploiting, using, falsifying or destroying judicial record data.
2. Providing untruthful judicial record information.
3. Forging papers requesting the issuance of judicial record cards.
4. Erasing, modifying or forging judicial record cards.
5. Issuing judicial record cards with untruthful, contrary to competence or improper subjects.
6. Using other people's judicial record cards in contravention of law, infringing upon private life secrets of individuals.

Article 9. Tasks and powers of agencies in the state management of judicial records

1. The Government shall perform the unified state management of judicial records.
2. The Supreme People's Court and the Supreme People's Procuracy shall coordinate with the Government in performing the state management of judicial records.
3. The Ministry of Justice shall be responsible to the Government for performing the state management of judicial records and have the following tasks and powers:
 - a) Submit to competent state agencies for promulgation or promulgate according to its competence legal documents on judicial records;
 - b/ To direct and organize the implementation of legal documents on judicial records; organize the dissemination and education of the law on judicial records; professional training and retraining for civil servants doing judicial record work;
 - c) Manage the judicial record database at the National Center for Judicial Records;
 - d) Ensuring material foundations and working facilities for the National Center for Judicial Records;
 - dd) To direct and provide professional guidance on judicial records;
 - e/ To examine, inspect, handle violations and settle according to their competence complaints and denunciations in the implementation of the law on judicial records;
 - g/ To promulgate and uniformly manage judicial record forms, papers and books;
 - h) Implement the application of information technology in the construction of databases and management of judicial records;

i) To carry out international cooperation in the field of judicial records;

k) Annually report to the Government on judicial record management activities.

4. The Ministry of Public Security, the Ministry of National Defense, the Ministry of Foreign Affairs and other ministries and ministerial-level agencies shall, within the ambit of their tasks and powers, coordinate with the Ministry of Justice in performing the state management of judicial records.

5. The People's Committees of the provinces and centrally-run cities (hereinafter referred to as the provincial-level People's Committees) shall perform the State management of judicial records in their localities and have the following tasks and powers:

a/ To direct and organize the implementation of legal documents on judicial records; organize the dissemination and education of the law on judicial records;

b) Ensuring payrolls, material foundations and working facilities for judicial record management activities in localities;

c/ To examine, inspect, handle violations and settle according to their competence complaints and denunciations in the implementation of the law on judicial records;

d) Implement the application of information technology in the construction of judicial record databases and management of judicial records under the guidance of the Ministry of Justice;

dd) Annually report to the Ministry of Justice on judicial record management activities in their localities.

Article 10. Fees for issuance of judicial record cards

1. Individuals requesting the issuance of judicial record cards shall have to pay a fee.

2. The fee levels, management and use of fees for the issuance of judicial record cards shall comply with the provisions of law.

Chapter II

ORGANIZATION AND MANAGEMENT OF JUDICIAL RECORD DATABASES

Article 11. Criminal record database

1. Judicial record database means a collection of information on criminal convictions and judgment enforcement status; the prohibition of holding positions, establishing and managing enterprises and cooperatives in case the enterprises or cooperatives are declared bankrupt by the Courts shall be updated and handled in accordance with the provisions of this Law.

2. The judicial record database shall be developed and managed at the National Center for Judicial Records under the Ministry of Justice and at the provincial-level Justice Department.

The Government shall specify the organization of the National Center for Judicial Records.

Article 12. Tasks of the National Center for Judicial Records in managing judicial record databases

1. To build, manage, exploit and protect judicial record databases nationwide.
2. To guide the establishment, management, exploitation and protection of judicial record databases at provincial-level Justice Departments.
3. Receive, update and process judicial record information provided by the Supreme People's Procuracy, competent agencies under the Ministry of Public Security, judgment enforcement agencies under the Ministry of National Defense and provincial-level Justice Departments.
4. To receive judicial records provided by provincial-level Justice Departments.
5. To supply judicial record information to provincial-level Justice Departments.
6. To compile judicial records and issue judicial record cards according to their competence.
7. To provide judicial record information of foreigners sentenced by Vietnamese courts at the request of the Supreme People's Procuracy.
8. To implement the regime of statistics and reports on the management of judicial record databases nationwide.

Article 13. Tasks of provincial-level Justice Departments in managing judicial record databases

1. To build, manage, exploit and protect judicial record databases within provinces and centrally-run cities.
2. To receive, update and process judicial record information provided by courts, relevant agencies and organizations and the National Center for Judicial Records.
3. To compile judicial records and issue judicial record cards according to their competence.
4. To supply judicial records and additional information to the National Center for Judicial Records; to provide judicial record information to other provincial-level Justice Departments.
5. To implement the regime of statistics and reports on the management of judicial record databases in localities.

Article 14. Protection and archiving of judicial record databases

Judicial record databases are national assets that must be strictly protected, safe and stored for a long time.

Only competent persons may access and exploit the judicial record database. The Government shall specify the protection and archiving of judicial record databases.

Chapter III

PROVISION, RECEIPT, UPDATE AND PROCESSING OF JUDICIAL RECORD INFORMATION AND JUDICIAL RECORD MAKING

Section 1. PROVISION AND RECEIPT OF JUDICIAL RECORD INFORMATION ON CRIMINAL CONVICTIONS

Article 15. Sources of judicial record information on criminal convictions

Judicial record information on criminal records is established from the following sources:

1. Legally effective first-instance criminal judgments and appellate criminal judgments;
2. Criminal cassation or reopening decisions;
3. Decisions on enforcement of criminal judgments;
4. To decide on exemption from serving penalties;
5. To decide on the reduction of the penalty serving duration;
6. Decisions on postponement of the execution of imprisonment penalties;
7. To decide on the suspension of the execution of imprisonment penalties;
8. To decide on exemption or reduction of judgment enforcement obligations for revenues remitted to the state budget;
9. The certificate of having completely served the imprisonment penalty; a written notification of the result of execution of the expulsion penalty;
10. A certificate of having completely served the penalty of non-custodial reform, imprisonment for enjoying a suspended sentence and additional penalties;
11. To decide on the execution of fines, confiscation of assets, court costs and other civil obligations of convicts; decisions on suspension of judgment enforcement; certificate of judgment enforcement results; a written notice of termination of judgment enforcement in case the convict has completely fulfilled his/her obligations;
12. To decide on commutation of the death penalty;
13. Certificates of special amnesty or general amnesty;
14. Decisions on expungement of criminal records;
15. Certificates of automatic expungement of criminal records;
16. Extracts of judgments or extracts of criminal records of Vietnamese citizens provided by foreign competent agencies to the Supreme People's Procuracy under international treaties on legal assistance in the criminal domain or on the principle of reciprocity;
17. Decisions of Vietnamese courts on extradition for judgment enforcement in Vietnam; decisions of Vietnamese courts on the receipt and transfer of persons serving imprisonment sentences; notification of decisions on special amnesty, general amnesty, exemption or reduction of penalties of the transferring country for persons serving imprisonment sentences;
18. To notify the implementation of decisions on extradition of convicts or decisions on transfer of persons serving imprisonment sentences in Vietnam at the request of competent foreign agencies.

Article 16. Courts' duties in providing judicial record information on criminal convictions

1. The courts that have tried the first-instance cases shall have the task of sending the following documents to the provincial-level Justice Services of the localities where such courts are headquartered:

- a) Extracts of legally effective first-instance criminal judgments and appellate criminal judgments;
- b) Decisions on cassation or reopening of criminal matters;
- c) Decisions on commutation of the death penalty;
- d) Decisions on enforcement of criminal judgments;
- dd) Decisions on postponement of the execution of imprisonment penalties;
- e) Decisions on expungement of criminal records;
- g) Certificate of automatic expungement of criminal record.

2. Courts that have issued decisions shall have the task of sending the following decisions to the provincial-level Justice Services of the localities where such courts are headquartered:

- a) Decisions on exemption from penalty serving;
- b) To decide on the reduction of the penalty serving duration;
- c) Decisions on the suspension of the execution of imprisonment penalties;
- d) Decisions on exemption or reduction of judgment enforcement obligations for revenues remitted to the state budget;
- dd) Decisions on receipt and transfer of persons serving imprisonment penalties specified in Clause 17, Article 15 of this Law.

3. The time limit for sending extracts of judgments, decisions or certificates specified in Clauses 1 and 2 of this Article is 10 days from the date the judgment or decision takes legal effect or from the date of receipt of the judgment or decision or from the date of issuance of the certificate.

4. Contents of extracts of judgments specified at Point a, Clause 1 of this Article include:

- a) Full name, gender, date of birth, place of birth, nationality, place of permanent or temporary residence, full name of father, mother, wife or husband of the convict;
- b) The date, month and year of pronouncement of the judgment, the number of the judgment, the court that has pronounced the judgment, the charges, the applicable law provisions, the main penalties, additional penalties, and civil obligations in the criminal judgment and court costs.

5. For decisions and certificates specified in Clauses 1 and 2 of this Article, the original or a copy of the decision or certificate shall be sent.

Article 17. Tasks of the Supreme People's Procuracy in providing judicial record information on criminal convictions

The Supreme People's Procuracy shall have the task of sending to the National Center for Judicial Records copies of extracts of judgments and criminal record extracts of Vietnamese citizens provided by foreign competent agencies within 10 days from the date of receipt of extracts of judgments. criminal record extracts.

Article 18. Tasks of police agencies in providing judicial record information on criminal convictions

1. Prison superintendents and detention camp superintendents shall have the task of sending certificates of complete execution of imprisonment sentences, certificates of special amnesty or general amnesty to the National Center for Judicial Records within 10 days after the issuance of the certificates.
2. The immigration management agency of the Ministry of Public Security shall send a notice of the execution of the expulsion penalty to the National Center for Judicial Records within 10 days after the execution of the penalty.
3. Competent agencies under the Ministry of Public Security shall send notices of the implementation of decisions on extradition of convicts or decisions on transfer of persons serving imprisonment sentences in Vietnam to the National Center for Judicial Records within 10 days. from the date of implementation of the decision.
4. Competent agencies under the Ministry of Public Security shall have to send notices of decisions on special amnesty, general amnesty, penalty exemption or reduction of the transferring country for persons serving imprisonment penalties to the National Center for Judicial Records within 10 days after receiving the notices.

Article 19. Tasks of judgment enforcement agencies under the Ministry of National Defense in providing judicial record information on criminal convictions

1. Prison superintendents and detention camp superintendents shall have the task of sending certificates of complete execution of imprisonment sentences, certificates of special amnesty or general amnesty to the National Center for Judicial Records within 10 days after the issuance of the certificates.
2. Judgment enforcement agencies of military zones or equivalent shall have the task of sending decisions, certifications and written notices specified in Clause 11, Article 15 of this Law to the National Center for Judicial Records within 10 days after the issuance of decisions or issuance of certificates or from the date on which the convicts have completely fulfilled their judgment enforcement obligations.

Article 20. Tasks of civil judgment enforcement agencies in providing judicial record information on criminal convictions

Civil judgment enforcement agencies shall have to send decisions, certifications and written notices specified in Clause 11, Article 15 of this Law to the provincial-level Justice Services of the localities where such agencies are headquartered within 10 days from the date of issuance of decisions or issuance of certificates or from the date on which the convicts have completely fulfilled their judgment enforcement obligations.

Article 21. Tasks of other agencies and organizations in providing judicial record information on criminal convictions

The agency or organization competent to issue the certificate of having completely served the penalty of non-custodial reform, imprisonment with suspended sentence and additional penalties shall send the certificate to the provincial-level Justice Department of the locality where the agency or organization is headquartered within 10 days. from the date of issuance of the certificate.

Article 22. Tasks and powers of the National Center for Judicial Records in receiving and providing judicial record information on criminal convictions

1. To fully and promptly receive judicial record information on criminal convictions provided by the Supreme People's Procuracy, competent agencies under the Ministry of Public Security and judgment enforcement agencies under the Ministry of National Defense. The receipt of judicial record information on criminal convictions must be recorded in the receipt book according to the form prescribed by the Minister of Justice.

2. To send copies of decisions, certificates, certifications and written notices provided by competent agencies under the provisions of Clause 1, Article 18 and Article 19 of this Law to the provincial-level Justice Services of the localities where the convicts permanently reside; in case the permanent residence place cannot be identified, it shall be sent to the provincial-level Justice Department of the locality where such person temporarily resides within 10 days after receiving the decision, certificate, certification or written notice.

Article 23. Tasks and powers of provincial-level Justice Departments in receiving and providing judicial record information on criminal convictions

1. Provincial-level Justice Services shall have the task of fully and promptly receiving judicial record information on criminal convictions provided by agencies and organizations in accordance with the provisions of this Law.

In case the convict permanently resides in another province or centrally-run city, the provincial-level Justice Department shall send his/her judicial record information to the provincial-level Justice Department of the locality where he/she permanently resides within 10 days from the date of receipt of the information; in case the permanent residence of the convict cannot be determined, the judicial record information shall be sent to the provincial-level Justice Department of the locality where such person temporarily resides; in case the permanent residence or temporary residence place of the convict cannot be identified, the provincial-level Justice Department shall send judicial record information to the National Center for Judicial Records.

2. The receipt of judicial record information on criminal convictions at provincial-level Justice Services must be recorded in the receipt books according to the form prescribed by the Minister of Justice.

Article 24. Supplementation and correction of judicial record information

1. In case the judicial record information is incomplete or contains errors, the judicial record database management agency shall request the agency or organization that has provided the additional information or correction.
2. Courts, procuracies, civil judgment enforcement agencies, competent agencies under the Ministry of Public Security, judgment enforcement agencies under the Ministry of National Defense and relevant agencies and organizations shall provide information to agencies managing judicial record databases within 10 days. from the date of receipt of the request for supplementation or correction.
3. The judicial record database managing agency shall provide information that has been supplemented or corrected under the provisions of Clause 2, Article 22 and Clause 1, Article 23 of this Law within 10 days after receiving the additional information. corrected.

Article 25. Forms of provision of judicial record information on criminal convictions

Judicial record information on criminal convictions shall be sent directly, by post or the Internet or computer network.

Section 2. COMPILATION OF JUDICIAL RECORDS, UPDATING AND PROCESSING OF JUDICIAL RECORD INFORMATION ON CRIMINAL CONVICTIONS

Article 26. Criminal Record Preparation

1. The provincial-level Justice Services of localities where the convicts permanently reside shall compile their judicial records; in case the permanent residence place cannot be determined, the provincial-level Justice Department of the locality where the convict temporarily resides shall compile a judicial record.

The judicial record shall be made in two copies, one shall be managed by the Department of Justice and the other shall be transferred to the National Center for Judicial Records.

2. The National Center for Judicial Records shall compile and keep judicial records in the following cases:

- a) The place of permanent residence or temporary residence of the convict cannot be determined;
- b) The convict is extradited for judgment enforcement or transferred to serve his imprisonment penalty in Vietnam;
- c) Receipt of copies of extracts of judgments or criminal records of Vietnamese citizens provided by the Supreme People's Procuracy under the provisions of Article 17 of this Law.

3. Judicial records shall be made on the basis of judicial record information sources on criminal convictions specified in Article 15 of this Law.

4. A judicial record shall be made separately for each convict with the following contents:

- a) Full name, gender, date of birth, place of birth, nationality, place of residence, number of people's identity card or passport, full name of father, mother, wife and husband of such person;
- b) The date of pronouncement of the judgment, the number of the judgment, the court that has pronounced the judgment, the charges, the applicable law provisions, the principal penalties,

additional penalties, civil obligations in the criminal judgment, court costs, and the status of judgment enforcement.

5. In case a person is convicted of many crimes and has been sentenced to a sum of penalties according to the provisions of the Penal Code, his/her judicial record shall clearly state each crime, the applicable law provisions and the general penalties for such offenses.

Article 27. Updating judicial record information on criminal records in case of exemption from serving penalties, reduction of penalty serving duration, postponement of imprisonment penalty, suspension of imprisonment penalty serving

In case a person's judicial record has been made and then there is a court decision on exemption from penalty serving, reduction of penalty serving duration, postponement of imprisonment penalty serving or suspension of imprisonment penalty, the provincial-level Justice Department shall update this information in his/her judicial record.

Article 28. Updating judicial record information on criminal convictions in case of cassation or retrial

1. For cassation or reopening decisions that do not accept protests and uphold legally effective judgments or decisions, provincial-level Justice Services shall record such decisions in judicial records.

2. For cassation or reopening decisions annulling legally effective judgments or rulings, provincial-level Justice Services shall update judicial record information as follows:

a/ In case judicial records are made only on the basis of annulled judgments or decisions, judicial records shall be deleted from the judicial record database;

b) In case the judicial record is made on the basis of many judgments or decisions, the information about the annulled judgment or decision in the judicial record shall be deleted.

Article 29. Updating judicial record information for subsequent judgments

In case a person's judicial record has been made but later sentenced by another judgment, the provincial-level Justice Department shall add information of the next judgment to his/her judicial record.

Article 30. Updating judicial record information in case of completion of judgment or special amnesty or general amnesty

1. Upon receipt of the certificate of having completely served the penalty of non-custodial reform, imprisonment with suspended sentence and additional penalties; decisions on suspension of judgment enforcement; the written notice of the end of judgment enforcement in case the convict has completely fulfilled his/her obligations, the provincial-level Justice Department shall record it in his/her judicial record according to the contents of the certificate, decision or written notice.

2. Upon receipt of the certificate of having completely served the imprisonment penalty, the National Center for Judicial Records shall record in his/her judicial record according to the contents of the certificate; in case of special amnesty, write "Having completely served the

imprisonment penalty according to the special amnesty decision"; in case of general amnesty, write "Exemption from penal liability according to the general amnesty decision".

Article 31. Updating judicial record information in case of expulsion

In case the convict has already served the expulsion penalty, the National Center for Judicial Records shall write "expelled" in his/her judicial record.

Article 32. Updating judicial record information in case Vietnamese citizens are sentenced by foreign courts

1. In case a Vietnamese citizen already has a judicial record and is subsequently extradited for judgment enforcement or transferred to serve an imprisonment penalty in Vietnam, the National Center for Judicial Records shall record his/her judicial record according to the contents of the extradition decision or the transfer receipt decision.

2. In case a Vietnamese citizen already has a judicial record and later has an extract of his/her judgment or criminal record provided by a foreign competent agency, the National Center for Judicial Records shall update information according to the provisions of Article 29 of this Law.

3. In case of receiving a notice of a foreign decision on penalty exemption or reduction, special amnesty or general amnesty for a Vietnamese citizen sentenced by a court of that country who is serving an imprisonment sentence in Vietnam, the National Center for Judicial Records shall record such person's judicial record in the judicial record according to the provisions of Article 27 and Clause 2, Article 30 of this Law.

Article 33. Updating judicial record information in cases where convicts are entitled to criminal record remission

1. In cases where convicts are automatically entitled to criminal record remission, provincial-level Justice Services shall update information as follows:

a) Upon receipt of the court's certificate of criminal record expungement, write "criminal record expunged" in his/her judicial record;

b) When determining that the convict is automatically eligible for criminal record remission under the provisions of the Penal Code, write "has had his/her criminal record expunged" in his/her judicial record.

2. In case a convicted person is decided by a court to have his/her criminal record expunged under the provisions of the Penal Code and the Criminal Procedure Code, the provincial-level Justice Department shall write "his/her criminal record has been expunged" in his/her judicial his/her his/her his

Article 34. Update additional judicial record information

In case the judicial record is updated with information as prescribed in Articles 27, 28, 29, Clause 1, Article 30 and Article 33 of this Law, the provincial-level Justice Department must send such information to the National Center for Judicial Records within 05 working days. from the date of completion of updating information. The National Judicial Record Center shall update the judicial record database immediately after receiving additional information.

The Minister of Justice shall prescribe the form of providing additional judicial record information.

Article 35. Handling of judicial record information when crimes are expunged

In case a person is convicted of a crime but this crime is abolished according to the provisions of the Penal Code, information about that crime shall be deleted in his/her judicial record.

Section 3. INFORMATION ON PROHIBITION FROM HOLDING POSITIONS, ESTABLISHMENT AND MANAGEMENT OF ENTERPRISES AND COOPERATIVES UNDER DECISIONS ON DECLARATION OF BANKRUPTCY

Article 36. Sources of judicial record information on the prohibition from holding positions, establishing and managing enterprises and cooperatives

Judicial record information on the prohibition from holding positions, establishing and managing enterprises and cooperatives is established from the legally effective bankruptcy declaration decision of the Court in accordance with the Bankruptcy Law.

Article 37. Providing and receiving judicial record information on the prohibition from holding positions, establishing and managing enterprises and cooperatives

1. The court that has issued the decision to declare bankruptcy of the enterprise or cooperative shall send an extract of the decision on bankruptcy declaration, including the prohibition of individuals from holding positions, establishing or managing enterprises or cooperatives, to the provincial-level Justice Services of the localities where such courts are headquartered within 10 days. from the date the Decision takes legal effect.

2. An extract of a decision on bankruptcy declaration includes:

- a) Full name, gender, date of birth, place of birth, nationality, place of permanent or temporary residence of the person banned from holding positions, establishing or managing enterprises or cooperatives;
- b) Positions that are prohibited from holding or are not allowed to establish or manage enterprises or cooperatives for a period of time.

3. Provincial-level Justice Services shall receive judicial record information on the prohibition from holding posts, establishment and management of enterprises and cooperatives provided by courts.

In case a person is banned from holding a position, establishing or managing an enterprise or cooperative permanently residing in another province or centrally-run city, the provincial-level Justice Department shall send his/her judicial record information to the provincial-level Justice Department of the locality where he/she permanently resides within 10 days. from the date of receipt of the information; in case the permanent residence of such person cannot be determined, the judicial record information shall be sent to the provincial-level Justice Department of the locality where such person temporarily resides.

The receipt of judicial record information on the prohibition from holding posts, establishing and managing enterprises or cooperatives must be recorded in the receipt book according to the form prescribed by the Minister of Justice.

Article 38. Compiling judicial records and updating information on the prohibition from holding positions, establishing and managing enterprises and cooperatives

1. In case a person banned by a court from holding a post, establishing or managing an enterprise or cooperative does not have a judicial record, the provincial-level Justice Department of the locality where such person permanently or temporarily resides shall make a judicial record on the basis of the court's decision to declare bankruptcy with the contents specified in Clause 2, Article 37 of this Law.

The judicial record shall be made in two copies, one shall be managed by the Department of Justice and the other shall be transferred to the National Center for Judicial Records.

2. In case a person banned by a court from holding a post, establishing or managing an enterprise or cooperative under a bankruptcy declaration decision already has a judicial record, the provincial-level Justice Department shall record his/her his/her judicial record under the court's decision and send such information to the National Center for Judicial Records. The update of additional information shall comply with the provisions of Article 34 of this Law.

Article 39. Handling of judicial record information upon the expiration of the time limit for not being allowed to establish or manage enterprises or cooperatives

Information about the fact that an individual is not allowed to establish or manage an enterprise or cooperative shall be deleted from the judicial record of that individual upon the expiration of the time limit under the Court's bankruptcy declaration decision.

Article 40. Forms of provision of judicial record information on the prohibition from holding posts, establishment and management of enterprises and cooperatives

Judicial record information on the prohibition from holding positions, establishing and managing enterprises or cooperatives shall be sent directly, by post, the Internet or computer networks.

Chapter IV

ISSUANCE OF JUDICIAL RECORD CARDS

Section 1. JUDICIAL RECORD CARD

Article 41. Criminal record card

1. A judicial record card comprises:

- a) Judicial record card No. 1 issued to individuals, agencies and organizations specified in Clauses 1 and 3, Article 7 of this Law;
- b) Judicial record card No. 2 shall be issued to the procedure-conducting agency specified in Clause 2, Article 7 of this Law and issued at the request of the individual so that such person may know the contents of his/her judicial record.

2. The Minister of Justice shall prescribe the form of judicial record card.

Article 42. Contents of Judicial record card No. 1

1. Full name, gender, date of birth, place of birth, nationality, place of residence, number of people's identity card or passport of the person who is granted a judicial record card.

2. Criminal record status:

a) For persons who are not convicted, write "no criminal record". In case the convict is not eligible for criminal record remission, write "has a criminal record", the crime, the main penalty or additional penalty;

b) For persons entitled to criminal record remission and information about criminal record remission which has been updated in the judicial record, write "no criminal record";

c) For the person who is granted general amnesty and the information about the general amnesty has been updated in the judicial record, write "no criminal record".

3. Information on prohibition from holding positions, establishment and management of enterprises and cooperatives:

a) For a person who is not banned from holding a position, establishing or managing an enterprise or cooperative under a bankruptcy declaration decision, write "not prohibited from holding a position, establishing or managing an enterprise or cooperative";

b) For a person who is banned from holding a position, establishing or managing an enterprise or cooperative under a bankruptcy declaration decision, write the position prohibited from holding or managing the enterprise or cooperative.

In case an individual, agency or organization does not make a request, the contents specified in this Clause shall not be recorded in the judicial record card.

Article 43. Contents of Judicial Record Card No. 2

1. Full name, gender, date of birth, place of birth, nationality, place of residence, number of people's identity card or passport, full name of father, mother, wife or husband of the person granted a judicial record card.

2. Criminal record status:

a) For a person who is not convicted, write "no criminal record";

b) For persons who have been convicted, write fully the criminal records that have been expunged, the time of criminal record remission or criminal record that has not yet been expunged, the date, month and year of judgment pronouncement, the number of the judgment, the court that has pronounced the judgment, the charges, the applicable law provisions, the main penalties and additional penalties, etc civil obligations in criminal judgments, court costs, and judgment enforcement status.

In case a person is convicted of different sentences, information about that person's criminal record shall be recorded in chronological order.

3. Information on the prohibition from holding positions, establishing and managing enterprises and cooperatives:

- a) For a person who is not banned from holding a position, establishing or managing an enterprise or cooperative under a bankruptcy declaration decision, write "not prohibited from holding a position, establishing or managing an enterprise or cooperative";
- b) For a person who is banned from holding a position, establishing or managing an enterprise or cooperative under a bankruptcy declaration decision, write the position prohibited from holding or managing the enterprise or cooperative.

Section 2. ISSUANCE OF JUDICIAL RECORD CARDS

Article 44. Competence to issue judicial record cards

1. The National Center for Judicial Records shall issue judicial record cards in the following cases:

- a) Vietnamese citizens whose permanent residence or temporary residence places cannot be determined;
- b) Foreigners who have resided in Vietnam.

2. Provincial-level Justice Services shall issue judicial record cards in the following cases:

- a) Vietnamese citizens permanently or temporarily residing in the country;
- b) Vietnamese citizens residing abroad;
- c) Foreigners residing in Vietnam.

3. The Director of the National Center for Judicial Records, the Director of the Department of Justice or an authorized person shall sign the judicial record card and take responsibility for the contents of the judicial record card.

In case of necessity, the National Center for Judicial Records and provincial-level Justice Services shall have to verify the conditions for automatic expungement of criminal records upon issuance of judicial record cards.

4. The issuance of judicial record cards must be recorded in the book of issuance of judicial record cards according to the form prescribed by the Minister of Justice.

Article 45. Procedures for requesting the issuance of Judicial Record Card No. 1

1. The applicant for a judicial record card shall submit a declaration requesting the issuance of a judicial record card enclosed with the following papers:

- a) A photocopy of the people's identity card or passport of the person who is granted the judicial record card;
- b) A copy of the household registration book or certificate of permanent or temporary residence of the person who is granted the judicial record card.

2. Individuals shall submit declarations requesting the issuance of judicial record cards and enclosed papers at the following agencies:

a) Vietnamese citizens shall submit to the provincial-level Justice Services of their places of permanent residence; in case there is no permanent residence, it shall be submitted to the provincial-level Justice Department of the place of temporary residence; in case of residing abroad, it shall be submitted to the provincial/municipal Justice Services of the localities where they reside before leaving the country;

b) Foreigners residing in Vietnam shall submit to the provincial-level Justice Services of the localities where they reside; in case they have left Vietnam, they shall be submitted to the National Center for Judicial Records.

3. Individuals may authorize other persons to carry out procedures for requesting the issuance of judicial record cards. The authorization must be made in writing in accordance with law; in case the applicant for a judicial record card is a parent, wife, husband or child of a person who is granted a judicial record card, a written authorization is not required.

4. Agencies and organizations defined in Clause 3, Article 7 of this Law, when requesting the issuance of judicial record cards, shall send written requests to the provincial-level Justice Services of the localities where the persons granted judicial record cards permanently or temporarily reside; in case the permanent residence or temporary residence place of the person granted the judicial record card cannot be identified, it shall be sent to the National Center for Judicial Records. The written request must clearly state the address of the agency, organization, purpose of use of the judicial record card and information about the person who is granted the judicial record card as prescribed in Clause 1, Article 42 of this Law.

5. The Minister of Justice shall prescribe a form of declaration requesting the issuance of a judicial record card.

Article 46. Procedures for requesting the issuance of Judicial Record Card No. 2

1. The procedure-conducting agency specified in Clause 2, Article 7 of this Law requesting the issuance of a judicial record card shall send a written request to the provincial-level Justice Department of the locality where the person granted the judicial record card permanently or temporarily resides; in case the permanent residence or temporary residence place of the person granted the judicial record card or the person granted the judicial record card is a foreigner who has resided in Vietnam, the written request shall be sent to the National Center for Judicial Records. The written request must clearly state information about such individual as prescribed in Clause 1, Article 43 of this Law.

In case of emergency, the competent person of the procedure-conducting agency may request the issuance of a judicial record card by telephone, fax or other forms and shall send a written request within 02 working days from the date of request for the issuance of a judicial record card.

2. Procedures for issuance of judicial record card No. 2 to individuals shall comply with the provisions of Clauses 1 and 2, Article 45 of this Law; in case an individual requests the issuance of a judicial record card No. 2, he or she may not authorize another person to carry out the procedures for issuance of a judicial record card.

Article 47. Searching for information for issuance of judicial record cards

1. In case a person who is granted a judicial record card has only one permanent residence in a province or centrally-run city since he or she is full 14 years old or older, the judicial record information lookup shall be conducted at the provincial-level Justice Department of the locality where he/she permanently resides.
2. In case the person who is granted a judicial record card has resided in many provinces or centrally-run cities since he is full 14 years old or older, the judicial record information lookup shall be conducted at the provincial-level Justice Department where the request is received and the National Judicial Record Center.
3. In case the person granted a judicial record card is a Vietnamese citizen who has resided abroad or a foreigner, the judicial record information lookup shall be conducted at the provincial-level Justice Department where the request is received and the National Judicial Record Center.
4. In case the permanent residence or temporary residence place of the person granted a judicial record card cannot be identified, the search of judicial record information shall be carried out at the National Center for Judicial Records.

Article 48. Time limit for issuance of judicial record cards

1. The time limit for issuance of judicial record cards shall not exceed 10 days from the date of receipt of valid requests. In case the person granted a judicial record card is a Vietnamese citizen who has resided in many places or has resided abroad for a period of time, a foreigner specified in Clauses 2 and 3, Article 47 of this Law, in case of having to verify the conditions for automatic expungement of criminal records specified in Clause 3, Article 44 of this Law, the time limit shall not exceed 15 days.
2. In case of emergency specified in Clause 1, Article 46 of this Law, the time limit shall not exceed 24 hours from the time of receipt of the request.

Article 49. Refusal to issue judicial record cards

The judicial record database management agency may refuse to grant a judicial record card in the following cases:

1. The issuance of judicial record cards does not fall under its competence;
2. The applicant for the issuance of a judicial record card to another person fails to meet the conditions specified in Article 7 and Clause 3, Article 45 of this Law;
3. Papers enclosed with the declaration requesting the issuance of judicial record cards are incomplete or forged.

In case of refusal to grant judicial record cards, a written notice clearly stating the reason must be given.

Article 50. Supplementation, correction, revocation and cancellation of judicial record cards

The agency issuing the judicial record card shall supplement, correct, revoke or cancel the judicial record card in case the issued judicial record card has inaccurate or illegal contents.

Chapter V

HANDLING OF VIOLATIONS AND SETTLEMENT OF COMPLAINTS AND DENUNCIATIONS ABOUT JUDICIAL RECORDS

Article 51. Handling of violations

1. Persons competent to manage judicial records who violate the provisions of this Law shall, depending on the nature and seriousness of their violations, be disciplined or examined for penal liability; if causing damage, they must pay compensation according to the provisions of law.
2. Those who violate the provisions of this Law shall, depending on the nature and seriousness of their violations, be administratively sanctioned or examined for penal liability; if causing damage, they must pay compensation according to the provisions of law.

Article 52. Right to complain

1. Individuals, agencies and organizations requesting the issuance of judicial record cards may lodge complaints in the following cases:
 - a) There are grounds to believe that the refusal to grant judicial record cards is unlawful or that the issuance of judicial record cards beyond the prescribed time limit infringes upon their legitimate rights and interests;
 - b) There are grounds to believe that the issued judicial record card has inaccurate contents, infringing upon their legitimate rights and interests.
2. The statute of limitations for first-time complaints about the acts specified in Clause 1 of this Article is 45 days from the date of receipt of the written notice of refusal or from the date of expiration of the time limit for settling the request for issuance of judicial record cards or from the date of receipt of judicial record cards; in case of objective obstacles, the statute of limitations for complaints is 60 days.

The statute of limitations for a second complaint is 30 days from the date of receipt of the complaint settlement decision of the competent person.

Article 53. Competence to settle complaints

1. Directors of provincial-level Justice Services are competent to settle complaints about their acts specified in Clause 1, Article 52 of this Law. In case the complainant disagrees with the complaint settlement decision of the director of the provincial-level Justice Service, he/she may lodge a complaint with the president of the provincial-level People's Committee or initiate an administrative lawsuit at the court.
2. The director of the National Center for Judicial Records is competent to settle complaints about his/her acts specified in Clause 1, Article 52 of this Law. In cases where the complainants disagree with the complaint settlement decisions of the directors of the National Center for Judicial Records, they may lodge complaints with the Minister of Justice or initiate administrative lawsuits at courts.

3. In case the complainant disagrees with the complaint settlement decision of the president of the provincial-level People's Committee or the Minister of Justice or fails to settle the complaint upon the expiration of the time limit for settling the complaint, he/she may initiate an administrative lawsuit at the court.

4. The time limit for settling complaints by directors of provincial/municipal Justice Services or directors of the National Center for Judicial Records is 15 days from the date of receipt of complaints.

The time limit for settling complaints by the presidents of provincial-level People's Committees and the Minister of Justice is 30 days from the date of receipt of complaints.

Article 54. Accuse

Citizens have the right to denounce to competent agencies, organizations and individuals acts of violating the law of competent persons in the management of judicial records, causing damage or threatening to cause damage to the interests of the State, the legitimate rights and interests of citizens, etc agencies and organizations.

The settlement of denunciations shall comply with the provisions of law on denunciation settlement.

Chapter VI

IMPLEMENTATION PROVISIONS

Article 55. Transitional provisions

1. For judicial record information on criminal convictions and judicial record information on prohibition from holding posts, establishment and management of enterprises or cooperatives that exist before the effective date of this Law, courts, procuracies, civil judgment enforcement agencies and competent agencies under the Ministry of Public Security, The Ministry of National Defense shall have the task of providing the National Center for Judicial Records and the Department of Justice to serve the issuance of judicial record cards.

2. The Ministry of Justice shall coordinate with the Supreme People's Court, the Supreme People's Procuracy, the Ministry of Public Security and the Ministry of National Defense in organizing the exchange and provision of judicial record information on criminal convictions, judicial record information on prohibition from holding posts, and establishment and management of enterprises and cooperatives before the effective date of this Law in order to build a judicial record database.

3. The Government shall coordinate with the Supreme People's Court and the Supreme People's Procuracy in guiding the procedures for searching, exchanging and providing judicial record information specified in Clauses 1 and 2 of this Article.

Article 56. Enforcement effect

1. This Law takes effect from July 1, 2010.

2. The Government, the Supreme People's Court and the Supreme People's Procuracy shall, within the ambit of their respective tasks and powers, detail and guide the implementation of the articles and clauses assigned in the Law; to guide other necessary contents of this Law to meet the requirements of state management.

This Law was approved by the National Assembly of the Socialist Republic of Vietnam in its 12th session, 5th session on June 17, 2009.

CHAIRMAN OF THE NATIONAL ASSEMBLY

NGUYEN PHU TRONG

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