

9. Об утверждении правил оказания услуг почтовой связи : приказ Минкомсвязи России от 31.07.2014 № 234 // Российская газета, № 299, 31.12.2014.

10. Постановление Правительства РФ от 15.04.2014 № 313 «Об утверждении государственной программы Российской Федерации «Информационное общество (2011 - 2020 годы)» // Собрание законодательства РФ, 05.05.2014, № 18 (часть II), ст. 2159.

11. Правила Организации Объединенных Наций, касающиеся защиты несовершеннолетних, лишенных свободы (Приняты 14.12.1990

Резолюцией 45/113 Генеральной Ассамблеи ООН) // СПС «КонсультантПлюс».

12. Толковый словарь живого великорусского языка : в 4 т. / авт.-сост. В. И. Даль. - 2-е изд. - СПб. : Типография М. О. Вольфа, 1880-1882. 2-е издание, том 2 (1881).

13. Толковый словарь живого великорусского языка : в 4 т. / авт.-сост. В. И. Даль. - 2-е изд. - СПб. : Типография М. О. Вольфа, 1880-1882. 2-е издание, том 2 (1881).

14. Цветкова Е.А. Категория законного интереса в юридической науке // Журнал российского права. 2016. № 3 (231). С. 37-46.

Anastasiia Silkova

postgraduate student (aspirant)

of the Department of Criminal Law

of the National Academy of Internal Affairs

Анастасія Сілкова

аспірант кафедри кримінального права

Національної академії внутрішніх справ

FEATURES OF IMPLEMENTATION OF PROBATION PROGRAMS FOR JUVENILES ОСОБЛИВОСТІ РЕАЛІЗАЦІЇ ПРОБАЦІЙНИХ ПРОГРАМ ДЛЯ НЕПОВНОЛІТНІХ

Summary: Features of implementation of probation programs for persons discharged from punishment with a probation is examined in the article. The algorithm of the implementation of probation program is proposed.

Key words: *Probation, discharge juveniles from punishment with a probation, probation program.*

Анотація: У статті досліджується особливості реалізації пробаційних програм щодо осіб, звільнених від відбування покарання з випробуванням. Запропоновано алгоритм реалізації пробаційної програми.

Ключові слова: *Пробація, звільнення неповнолітніх від відбування покарання з випробуванням, пробаційна програма.*

Formulation of the problem. More than 7 years ago Ukraine begun reforming the criminal justice system for juveniles, which is intended to reduce the level of juvenile delinquency; more effectively protect the rights of young people who are in conflict with the law; and to promote the rehabilitation and reintegration of children who have committed offenses, to their communities. The implementation of these tasks, among the others, should have been ensured by the probation service that was established in our state. Thus, on February 15, 2015, the Verkhovna Rada of Ukraine adopted the Law of Ukraine "On Probation" No. 160-VIII, which applies to the bodies of probation the duty of realization regarding the persons discharged from punishment with a probation, provided for by the probation program of activities, aimed to correct the social behavior or its individual indicators, the formation of socially favourable personality changes that can be objectively verified [1]. At the same time, these changes came into effect only from 01.01.2018 [2] and require system analysis.

In view of this, **the purpose** of this work is to examine certain theoretical aspects and valid legal acts in relation to the probation programs for juveniles. The achievement of the research goal is based on the following **tasks**: 1) to provide an objective assessment of the latest legislation of Ukraine concerning probative programs for juveniles; 2) to develop concrete proposals for their improvement.

State of research. Despite the fact that certain aspects of the examining problem were considered in the writings of such scholars as: E.E. Barash, O.V. Betsa, I.G. Bogatyrev, A.P. Gel, T.A. Denisova, O.M. Dzhuzha, V.M. Dremin, O.G. Kolb, O.V. Lisoded, A.H. Stepanyuk, V.M. Trubnikov, O.G. Frolova, D.V. Yagunov, I.S. Yakovets and others, nevertheless, the issue of implementing probation programs for persons discharged from punishment with a probation is not sufficiently investigated.

Presenting main material. By the Resolution of the Cabinet of Ministers of Ukraine "On Approval of the Procedure for the Development and Implementation of Probation Programs" of January 18, 2017 No. 24, the responsibility for the development of probationary programs and their approval was delegated to the Ministry of Justice of Ukraine [3].

The Ministry of Justice of Ukraine took more than three years to fulfill this duty and to create probation programs for juvenile probation subjects. According to the Deputy Minister of Justice, in 2017, with the assistance of the Government of Canada, nine Centers of Juvenile Probation were opened in Dnipro, Zhytomyr, Kyiv, Lviv, Mykolaiv, Mariupol, Melitopol, Odesa and Kharkiv for work with juveniles who were prosecuted and are in an open society, while maintaining socially useful relationships with their relatives. In addition, four trial regions were identified for the creation of

model probation offices in Kropivnitsky, Lutsk, Poltava and Cherkassy. On the basis of these offices, new models of probation management are piloted, and four projects of probation programs are implemented: "Overcoming aggressive behavior", "Change in criminal thinking", "Prevention of the use of psychoactive substances", "Life skills" [4].

Programs with similar content were developed by charitable organizations with the support of international cooperation. In particular, the Charitable Organization "Light of Hope", within the framework of the project "Resocialization and professional training of criminals", with the financial support of the DVV International Representative Office in Ukraine, developed the Methodological Recommendations "Conducting a case in work with convicted probation officers" [5].

For example, on the basis of the school of social rehabilitation of the city of Sverdlovsk in Luhansk region, a "Psycho-pedagogical correction-developing program for overcoming aggressive behavior of juveniles" was developed in 2009. One of these programs is "Anger Management", created within the framework of the project "Reforming the Criminal Justice System for Juveniles in Ukraine", implemented with the support of Canadian Ministry of Foreign Affairs, Trade and Development by Agritam Canada Consulting in cooperation with the Ministry of Justice and the General Solicitor of the Government of Alberta Province. The program was developed in 2011 as part of a trial project to create a Center for visiting children and young people who are in conflict with the law, which is being implemented on the basis of the Melitopol City Center for Social Services for Family, Children and Youth (Zaporizhzhya Oblast). In the Melitopol educational colony for the girls that are serving sentences in the form of imprisonment, in Zaporizhzhya region, "Preventive program of responsible partner behavior" is applied [6, p. 76-80].

On March 28, 2018, the Ministry of Justice of Ukraine approved the List of Measures on the Implementation of Probation Programs [7], which obliged probation bodies to implement the probation program and provide the court with all necessary information regarding the probation program developed for a specific convict, in particular: tasks that were defined in the program, content of activities, evaluation of the results of the probation program implementation, other additional information on the probationary program, and the availability of specialists who have been trained in the implementation program.

Also, the term "curator of the probation program" was introduced by the list – a representative of the personnel of the probation body who had obtained the relevant training and will directly implement the probation program, which includes: drawing up a timetable for the implementation of the probation program, taking into account the individual plan of work with the convicted person, and should be consistent with the activities of the abovementioned plan and opportunities of the subject of probation; execution of measures provided for by the probation program in a term not exceeding the trial period specified by the court; an assessment of the results of the probation program and preparation of a conclusion on the implementation of the measures provided for by the probation program,

within a period not later than ten working days after the person is fully completing the probation program measures.

And finally, on June 11, 2018, the Ministry of Justice of Ukraine approved such probation programs for working with juvenile probation subjects, such as: "Prevention of the use of psychoactive substances", "Overcoming aggressive behavior", "Change on criminal thinking" [8].

Article 12 of the Law of Ukraine "On Probation" specifies features of probation for juveniles. Thus, the probation program for them should be developed and implemented taking into account the age and psychological characteristics of juveniles, ensuring their normal physical and mental development, preventing aggressive behavior, motivating positive personality changes and improving social relations.

According to Part 4 of Art. 12 of the Law of Ukraine "On Probation", probation for juveniles must be carried out by the probation body in conjunction with the authorities and services for children, special institutions and institutions that carry out their social protection and prevention of crimes. The list of such special institutions and organisations is defined in Art. 1 of the Law of Ukraine "On the bodies and services for children and special institutions for children".

In addition, the Procedure for the Development and Implementation of Probation Programs and the List of Measures for the Implementation of the Probation Program indicates the obligation of the authorized probation body to implement a probation program for a juvenile probation subject along with the person who is providing the social services defined by the Laws of Ukraine "On Social Services" from 19.06.2003, No. 966-IV [9] and "On Social Work with Families, Children and Youth" of 21.06.2001, No. 2558-III [10].

We believe that the above-mentioned obligation in the legislation of Ukraine to engage in the development and implementation of probation programs with juveniles of specialists of other state bodies and public organizations, in particular specialists in the field of psychology, sociology and pedagogy, is appropriate and will facilitate the implementation of the purpose of probation.

It means that the probation program should be the so-called ideal model of working with convicted juveniles, aimed on their correction and re-socialization, preventing them from committing criminal offenses again.

In our opinion, the algorithm for implementing the probation program should include the following steps:

1. Initial study of the convicted person. At this stage, the employee of the probation body should collect information about the person: his age, state of health, availability of addictions and level of development, education, profession or work performed (employment), socio-psychological characters of the person, interests, preferences, living conditions and upbringing, family relationships, reasons for committing a crime and attitude towards the crime.

We consider it's useful, in such conversations, to obtain an approximate list of the information specified in Section I and II of the Diary of the Social Work with the convicted juvenile, which is Annex 2 to the Provision on the Division of Social Psychological Service,

approved by the Order of the Ministry of Justice of Ukraine from 04.11.2013, No. 2300/5 [11].

In this case, it is important to establish contact with a juvenile. It means that communication should be carried out with respect to the convicted person, in the absence of superiority from of the employee of the probation body. After all, depending on the level of trust, it will be possible to determine the real determinants of the commission of a crime and to take measures for their prevention.

2. Analysis of the received information about the convicted person, which promotes the formulation of problems both conscious and unconscious, needs of the convicted person and resources for their solution and satisfaction. Such resources can include both the independent capabilities of the convicted person and the possibilities of the involved bodies and organizations in the probation program: centers for social services for the family, children and youth, children's shelters, centers for social and psychological rehabilitation of children, social and rehabilitation centers (children's towns), persons that are providing socio-economic, legal services.

3. Development of an individual work plan. At this stage, it is necessary to coordinate with the convicted person the list of measures, so-called rehabilitation services, which will be provided to him, taking into account certain problems and needs, as well as possibilities for their solution and satisfaction, and to set the terms of implementation of the plan. For example, such rehabilitation services may include: counselling by a psychologist and participation of a convicted person in programs of differentiated educational effects, in particular, programs for overcoming aggression, forming socially suitable forms of behavior and skills of positive communication, deprivation of dependence of the use of alcohol and/or psychoactive substances, registration in the education institution, registration in the center of employment, placement in the rehabilitation centers, obtaining legal services.

4. Implementing an individual plan of work. An individual plan of work is implemented by redirecting the convicted person to the relevant services. Such forwarding involves both the independent actions of the convicted client and, if necessary, the accompaniment and referral to the relevant services [5]. At this stage, the employee of the authorized probation body carries out observing and monitoring of the individual plan fulfillment: provides support in case of necessity at the initial stages of the individual plan implementation, advises, informs the convicted person about the work schedules and necessary actions to appeal to the certain authorities and organizations.

5. Completion of work. The principle of this stage is the analysis of the results of the individual plan implementation, the assessment of the emotional state of the convicted person, planning the next steps of life, in the presence of the wishes of the convict – to add an individual plan for its further implementation after the court's final decision on dismissal. In addition, this

stage involves informing the court employee of the authorized body on probation about the implementation of measures provided for by the probation program for the final release of the juvenile from serving the sentence.

It seems that the implementation of the probation program in the indicated order with the involvement of specialists of other state bodies and public organizations, in particular specialists in the field of psychology, sociology and pedagogy, will increase the effectiveness of social adaptation of convicted juveniles and reduce the level of their recurrent crime, which will positively affect security and well-being of society.

References:

1. The Law of Ukraine "On Probation" of February 05, 2015 No. 160-VIII. URL: <http://zakon.rada.gov.ua/laws/show/160-19>
2. The Law of Ukraine "On Amendments to Certain Legislative Acts of Ukraine on Enforcement of Criminal Penalties and the Realization of the Rights of the Convicted" of September 07, 2016 No. 1492-VIII. URL: <http://zakon2.rada.gov.ua/laws/show/1492-19/>
3. The first national conference "Development of the probation system in Ukraine". URL: <https://minjust.gov.ua/news/ministry/persha-natsionalna-konferentsiya-rozvitok-sistemi-probatsii-ukraini>
4. The Resolution of the Cabinet of Ministers of Ukraine "The Procedure of the Development and Implementation of Probation Programs" of January 18, 2017 No. 24. URL: <http://zakon5.rada.gov.ua/laws/show/24-2017-%D0%BF>
5. Methodical recommendations "Probation officers" case management with convicted". URL: <http://aph.org.ua/wp-content/uploads/2016/08/case-site.pdf>
6. Sergeeva K.V. Prevention of aggressive behavior of juveniles in centers of social and psychological rehabilitation: PhD diss.: 13.00.05. K., 2016. 368 p.
7. The Order of the Ministry of Justice of Ukraine "On Approval of the List of Measures for the Implementation of Probation Programs" of March 28, 2018 No. 926/5. URL: <http://zakon.rada.gov.ua/laws/show/z0483-18>
8. The Order of the Ministry of Justice of Ukraine "On Approval of Probation Programs for Juvenile Probation Subjects" of June 11, 2018 No. 1797/5.
9. The Law of Ukraine "On Social Services" of June 19, 2003 No. 966-IV. URL: <http://zakon5.rada.gov.ua/laws/show/966-15>
10. The Law of Ukraine "On Social Work with Families, Children and Youth" of June 21, 2001 No. 2558-III. URL: <http://zakon5.rada.gov.ua/laws/show/2558-14>
11. The Order of the Ministry of Justice of Ukraine "About approval of the Provision on the department of the social-psychological service" of November 4, 2013, No. 2300/5. URL: <http://zakon3.rada.gov.ua/laws/show/z1863-13/print1509834265985830#n87>