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# 全国人民代表大会常务委员会关于《中华人民共和国刑事诉讼法》第二百五十四条第五款、第二百五十七条第二款的解释

# Interpretation of the Standing Committee of the National People's Congress on Paragraph 5 of Article 254 and Paragraph 2 of Article 257 of the Criminal Procedure Law of the People's Republic of China

全国人民代表大会常务委员会关于《中华人民共和国刑事诉讼法》第二百五十四条第五款、第二百五十七条第二款的解释

Interpretation of the Standing Committee of the National People's Congress on Paragraph 5 of Article 254 and Paragraph 2 of Article 257 of the Criminal Procedure Law of the People's Republic of China

(2014年4月24日第十二届全国人民代表大会常务委员会第八次会议通过)

(Adopted at the 8th session of the Standing Committee of the 12th National People's Congress on 24 April 2014)

全国人民代表大会常务委员会根据司法实践中遇到的情况，讨论了刑事诉讼法第二百五十四条第五款、第二百五十七条第二款的含义及人民法院决定暂予监外执行的案件，由哪个机关负责组织病情诊断、妊娠检查和生活不能自理的鉴别和由哪个机关对予以收监执行的罪犯送交执行刑罚的问题，解释如下:

In light of what is encountered in judicial practice, the Standing Committee of the National People's Congress has discussed the implication of Paragraph 5 of Article 254 and Paragraph 2 of Article 257 of the Criminal Procedure Law, and issues regarding which organ is responsible for organizing disease diagnosis and pregnancy check or identification of whether a criminal can live by him/herself, and which organ shall deliver a criminal who is taken in prison for execution of a criminal penalty if the people's court decides that the criminal may temporarily serve his/her sentence outside an incarceration facility. The interpretation is given as follows:

罪犯在被交付执行前，因有严重疾病、怀孕或者正在哺乳自己婴儿的妇女、生活不能自理的原因，依法提出暂予监外执行的申请的，有关病情诊断、妊娠检查和生活不能自理的鉴别，由人民法院负责组织进行。

Where a criminal, before being handed over for execution of a criminal penalty, applies for temporarily serving his/her sentence outside an incarceration facility according to the law as he/she is suffering from a serious illness, is pregnant or is breast-feeding her own baby, or cannot live by himself/herself, the people's court shall be responsible for organizing the disease diagnosis, pregnancy check and identification of whether the criminal can live by himself/herself.

根据刑事诉讼法第二百五十七条第二款的规定，对人民法院决定暂予监外执行的罪犯，有刑事诉讼法第二百五十七条第一款规定的情形，依法应当予以收监的，在人民法院作出决定后，由公安机关依照刑事诉讼法第二百五十三条第二款的规定送交执行刑罚。

In accordance with Paragraph 2 of Article 257 of the Criminal Procedure Law, where a criminal temporarily serving his/her sentence outside an incarceration facility in accordance with the decision made by the people's court thereon is taken back to prison as he/she falls under the circumstance as specified in Paragraph 1 of Article 257 of the Criminal Procedure Law, after the decision on taking the criminal back to prison is made by the people's court, the public security organ shall deliver the criminal for execution of the criminal penalty in accordance with Paragraph 2 of Article 253 of the Criminal Procedure Law.

现予公告。

It is hereby announced.