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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

KYRGYZSTAN

**DRAFT LAW OF THE KYRGYZ REPUBLIC
ON AMENDMENTS TO THE CODE OF THE KYRGYZ REPUBLIC
ON THE OFFENCES**

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Project

I. LAW OF THE KYRGYZ REPUBLIC

On Amendments to the Code of the Kyrgyz Republic on the offenses

Article 1.

To introduce into the Code of the Kyrgyz Republic on Offenses dated October 28, 2021 No. 128 (Erkin-Too newspaper dated November 16, 2021):

1) Article 522 shall be supplemented with subparagraph 52 of the following content:

"52) forced delivery of an offender who is in a state of intoxication, poses an immediate danger to himself or others, or is in a state of helplessness, to an institution of an authorized body in the field of health care for the provision of emergency drug addiction treatment;"

2) Chapter 55 shall be supplemented with Article 529² of the following content:

Article 529². Forced delivery of an offender in a state of intoxication for emergency drug treatment

1. Forced delivery of an offender in a state of intoxication for emergency drug treatment is the forced transfer of a person in order to ensure the safety of participants in legal proceedings in cases of offenses to an institution of an authorized body in the field of health care.

2. Forced delivery must be carried out within a short period of time.

3. Forced delivery is carried out exclusively in relation to an offender who is in a state of intoxication, poses an immediate danger to himself or others, or is in a state of helplessness.

4. A corresponding entry is made in the report on the offense or detention regarding forced delivery.

Article 2.

1. This Law shall enter into force upon expiration of ten days from the date of official publication.

2. The Cabinet of Ministers of the Kyrgyz Republic shall, within six months, bring its regulatory legal acts into conformity with this Law.

**President
Kyrgyz Republic**

S.N.Japarov

II. REFERENCE JUSTIFICATION

to the draft Law of the Kyrgyz Republic "On Amendments to the Code of the Kyrgyz Republic on offenses"

1. Objectives and tasks

The main objectives of the proposed draft law are to strengthen security measures for participants in legal proceedings in cases of offenses, as well as to reduce premature deaths from the use of alcohol, narcotic drugs, psychotropic and other intoxicating substances and to improve access to effective emergency medical and highly specialized qualified care.

2. Descriptive part

The regulatory framework for the proposed draft law includes:

- Code of the Kyrgyz Republic on Offenses dated October 28, 2021 No. 128;
- Law of the Kyrgyz Republic “On the Protection of Health of Citizens in the Kyrgyz Republic” dated January 12, 2024 No. 14.

The Law of the Kyrgyz Republic “On the Protection of Health of Citizens in the Kyrgyz Republic” contains Article 91 (Provision of inpatient care for mental and/or behavioral disorders without the patient’s consent), which allows for the hospitalization of a person with a mental and/or behavioral disorder in a psychiatric or drug treatment facility.

“Behavioral disorders” usually arise in a person as a result of the use of alcohol, drugs, psychotropic and other intoxicating substances.

Involuntary hospitalization in a drug treatment facility is possible without the consent of the person or his legal representative prior to a judge’s decision, if his examination or treatment is only possible in a hospital setting, and the mental disorder is severe and causes:

- his immediate danger to himself or others;
- helplessness, that is, the inability to independently satisfy basic life needs;
- significant harm to his health due to the deterioration of his mental state if the person is left without psychiatric care.

This norm opens up broad opportunities for the involuntary hospitalization of persons in a state of intoxication who have committed an offense while intoxicated.

However, in practice, its use is problematic, since law enforcement agencies, in the context of legal proceedings on cases of offenses, do not have the right to forcibly deliver intoxicated offenders to drug treatment facilities of the Ministry of Health of the Kyrgyz Republic.

The introduction of a rule on the forced delivery of offenders in the context of legal proceedings on cases of offences will provide an opportunity to improve the situation that has arisen in this area.

As a result of the implementation of the proposed law, officials conducting proceedings on cases of offenses will be able to forcibly deliver intoxicated offenders to drug treatment facilities of the Ministry of Health of the Kyrgyz Republic.

For these purposes, it is proposed to supplement Article 522 (Types of measures to ensure the legality of proceedings in cases of offenses) of the Code of the Kyrgyz Republic on Offenses with subparagraph 52 of the following content:

"52) forced delivery of an offender who is in a state of intoxication, poses an immediate danger to himself or others, or is in a state of helplessness, to a drug treatment facility for the provision of emergency drug treatment;"

It is also proposed to establish the procedure for forced delivery by adding Article 529² to the Code of the Kyrgyz Republic on Offenses with the following content:

Article 529² Forced delivery of an offender in a state of intoxication for emergency drug treatment

1. Forced delivery of an offender in a state of intoxication for emergency drug treatment is the forced transfer of a person in order to ensure the safety of participants in legal proceedings in cases of offenses to a drug treatment facility of an authorized body in the field of health care.

2. Forced delivery must be carried out within a short period of time.

3. Forced delivery is carried out exclusively in relation to an offender who is in a state of intoxication, poses an immediate danger to himself or others, or is in a state of helplessness.

4. A corresponding entry is made in the report on the offense or detention regarding forced delivery.

3. Forecasts of possible social, economic, legal, human rights, gender, environmental, corruption consequences of the adopted law

There are no negative social, economic, legal, human rights, gender, environmental or corruption consequences of the adopted law.

On the contrary, measures will be taken to reduce premature mortality and improve access to effective emergency medical and highly specialized qualified care in cases of severe intoxication.

4. Information on the results of public discussion

In accordance with Article 22 of the Law of the Kyrgyz Republic "On Regulatory Legal Acts of the Kyrgyz Republic", the draft underwent a public discussion procedure by posting it on the Unified Portal of Public Discussions of Regulatory Legal Acts of the Kyrgyz Republic (ID4502 dated November 26, 2024), as a result of which no proposals or comments were received.

5. Analysis of the project's compliance with legislation

The proposed draft law is fully consistent with and based on the following norms:

- Code of the Kyrgyz Republic on Offenses dated October 28, 2021 No. 128;
- Law of the Kyrgyz Republic “On the Protection of Health of Citizens in the Kyrgyz Republic” dated January 12, 2024 No. 14.

The presented draft Law of the Kyrgyz Republic does not contradict the norms of current legislation, as well as international treaties that have entered into force in the established manner, to which the Kyrgyz Republic is a party.

6. Information on the need for funding

No additional funding will be required to implement the proposed draft law.

7. Information on the regulatory impact analysis

The presented project does not require a regulatory impact analysis, since it is not aimed at regulating entrepreneurial activity.

Minister

A.B. Baetov

III. COMPARATIVE TABLE

to the draft Law of the Kyrgyz Republic “On Amendments in the Code of the Kyrgyz Republic on Offenses”

Code of the Kyrgyz Republic on Offences from October 28, 2021 No. 128	
Current edition	Suggested revision
<p style="text-align: center;">Article 522. Types of measures to ensure the legality of proceedings in cases of offenses</p> <p>In order to prevent an offense, establish the identity of the person suspected of committing it, draw up a report on the offense when it is impossible to draw it up at the place where the offense was committed, ensure timely and correct consideration of the case and execution of the decision taken on the case, the authorized official has the right, within the limits of his powers, to take the following measures to ensure proceedings on the case of the offense:</p> <ol style="list-style-type: none"> 1) delivery of the offender to the place where the protocol on the offense is drawn up; 2) detention; 3) drive; 4) personal search and inspection of the vehicle, small vessel and belongings; 	<p style="text-align: center;">Article 522. Types of measures to ensure the legality of proceedings in cases of offenses</p> <p>In order to prevent an offense, establish the identity of the person suspected of committing it, draw up a report on the offense when it is impossible to draw it up at the place where the offense was committed, ensure timely and correct consideration of the case and execution of the decision taken on the case, the authorized official has the right, within the limits of his powers, to take the following measures to ensure proceedings on the case of the offense:</p> <ol style="list-style-type: none"> 1) delivery of the offender to the place where the protocol on the offense is drawn up; 2) detention; 3) drive; 4) personal search and inspection of the vehicle, small vessel and belongings;

<p>5) examination to determine the state of intoxication with alcohol, narcotic drugs, psychotropic and other intoxicating substances.</p> <p>6) drawing up a risk assessment protocol.</p>	<p>5) examination to determine the state of intoxication with alcohol, narcotic drugs, psychotropic and other intoxicating substances;</p> <p>52) forced delivery of an offender who is in a state of intoxication, poses an immediate danger to himself or others, or is in a state of helplessness, to an institution of an authorized body in the field of health care for the provision of emergency drug addiction treatment;</p> <p>6) drawing up a risk assessment protocol.</p>
<p>does not contain</p>	<p>Article 529² Forced delivery of an offender in a state of intoxication for emergency drug treatment</p> <p>1. Forced delivery of an offender in a state of intoxication for emergency drug treatment is the forced transfer of a person in order to ensure the safety of participants in legal proceedings in cases of offenses to an institution of an authorized body in the field of health care.</p> <p>2. Forced delivery must be carried out within a short period of time.</p> <p>3. Forced delivery is carried out exclusively in relation to an offender who is in a state of intoxication, poses an immediate danger to himself or others, or is in a state of helplessness.</p> <p>4. A corresponding entry is made in the report on the offense or detention regarding forced delivery.</p>