

Abstract

In the present, the condition of the prison in Thailand is very crowded. As the result, the space in the prison is imbalance with the prisoners. The objective of punishment emphasizes on rehabilitating offenders. It also includes prevent them from commit a crime again and returning them to the society. In order to solve the problem, the system needs to be developed and the treatment of prisoners needs to be suitable for each prisoner. In other countries, electronic monitoring of offender is to punish offenders without imprisonment which is widely used in criminal justice system. Furthermore, section 89/2 (3) of the criminal procedure code provides that the judges can control the prisoners by using electronic devices as an alternative option. The judges may issue such order together with some conditions. However, in Thailand, there is no guidance and the rule of monitoring the prisoners with electronic devices. As the result, in order to provide a proper guidelines and efficient enforcement for Thailand, the researcher has studied the concept, sources of the law, and the rules of monitoring prisoners with electronic device in foreign law and Thai law.

From the study, the researcher found that the federal state of Georgia and English government monitors the prisoners with electronic device in several stages of criminal justice system such as Pre-Trial stage, temporary release on temporary license, alternative option of punishment stage, Primary Sentencing stage and Post prison stage. Furthermore, Georgia law provides specific rules relate to sexual offender and English law replaces detention on behalf of fine with this measure. Monitoring the prisoner with the electronic devices is used as an instrument for achieving an objective. The objective of monitoring the prisoners with the electronic device is to control and to ensure that the prisoner will not commit a crime again. Therefore, the laws have a similar criterion which is to consider the safety of the public. Such consideration is judge's discretion. The law empowers judges to make discretionary decision. In order to assessing the risk, the judges have to consider many criteria such as the suitability for each person, the offence of committing a crime, criminal record, offender environmental background. The

judges have to supervise the offender through out the process. If there is violation of orders or agreements, the offender will be relocated to the prison for the safety of the public.

Therefore, research proposes the guideline of rule and method which may be issued as ministerial regulation pursuant to section 89/2(3) of the criminal procedure code. The researcher is opinion that monitoring prisoner with electronic devices is suitable and the law should replace the detention on behalf of fine with this measure, use it with release on temporary license and use it with the offender who is designated by conditions for controlling such person's behavior. Furthermore, the aforementioned measure is not necessary to use with the prison has to serve times for a while in order to achieving the objective of the law. The researcher recommends that section 89/2(3) should be amended by removing the condition that the prisoner has to serve time at least one third of the term of punishment or at least ten years in case of thirty years imprisonment or life imprisonment.