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O.P. Gorokh,Candidate of Law, Associate Professor, Associate Professor
of the Department of Criminal and Criminal Procedural Law
of the National university “Kyiv-Mohyla Academy”, Kyiv**BASES AND CONDITIONS FOR THE RELEASE FROM
SERVING A SENTENCE WITH PROBATION
OF PREGNANT WOMEN AND WOMEN HAVING CHILDREN
AGE TO SEVEN YEARS**

Paper investigates issues of release from serving of punishment with the probation of pregnant women and women having children under age seven (Article 79 of Criminal Code of Ukraine). Theoretical and applied issues of definition of the bases and conditions of release from serving of punishment with the probation of women of this category are covered.

On the basis of studying of the legislation and special literature the conclusion is drawn that the bases of release from serving of punishment with the probation of women is an establishment of a condition of pregnancy of the woman by court or presence at the woman of children under age seven years. Conditions – the specific circumstances of business characterizing severity of the committed crime, the personality guilty other facts of the case and which allow court to decide (taking into account a possibility of performance by the woman, requirements specified in Part 5 of Article 79 of Criminal Code of Ukraine) the positive decision on application concerning the woman of Part 1 of Article 79 of Criminal Code of Ukraine.

For the purpose of elimination of ambiguous application of Part 1 of Article 79 of Criminal Code of Ukraine UK by vessels specific proposals on improvement of the criminal legislation are stated.

For justification of the received conclusions 608 judgments made by courts of Ukraine during 2006-2018 in which vessels concerning the condemned women resolved an issue of application of Article 79 of Criminal Code of Ukraine were studied. Studying of court practice showed that release from serving of punishment with the probation is applied mainly to the condemned women, which: voluntarily paid sustained losses (eliminated the done harm) and the victims do not insist on strict punishment; did not cause crime execution of heavy consequences; carried out at crime execution in partnership an inactive (minor) role; admitted guilt and really frankly regretted; actively promoted crime detection; works (training) is positively characterized at the place of residence; work (study); have young age; suffer on different diseases.

Examples from court practice showed law enforcement problems in this sphere.

Keywords: release from serving of punishment with the probation of pregnant women and women having children under age seven years; bases release from serving of punishment with the probation of pregnant women and women having children under age seven years; conditions release from serving punishment with the probation of pregnant women and women having children under age seven years.

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