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廈門大學

硕士学位论文

论我国强制医疗制度的构建与实施

On the Construction and Application of Compulsory Medical
Treatment

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内容摘要

2012年3月14日第十一届全国人民代表大会第五次会议通过了《关于修改〈中华人民共和国刑事诉讼法〉的决定》，在新增的第四编中规定了关于强制医疗的相关内容。作为特殊的一项社会防卫措施，修改后的刑诉法以专章的形式构建了具有中国特色的刑事强制医疗程序，该程序对保障社会的安全与稳定具有重要意义，其价值值得肯定。但作为一种新的司法制度，由于在执法者还是群众对其基本理念还存在认识上的偏差，同时我国现行刑诉法对其规定又过于简单，所以在实践中存在不少问题，影响了其实际效用。

本文除引言和结语外，分为四章，下面将各章主要内容分述如下：

第一章，主要介绍强制医疗的一般理论。该部分内容从强制医疗的概念、特点、适用对象进行初步分析，另外，对强制医疗的起源和在我国的发展进行了一定的梳理，对强制制医疗理论基础、意义进行了探讨。

第二章，分析对我国强制医疗立法构建，包括立法背景及对我国新修订的刑诉法及两高的相关解释进行分析讨论。

第三章，结合实践对强制医疗进行实证分析，总结其在适用对象、庭审模式、配套及监督制度方面存在的不足。

第四章，在前面分析和讨论的基础上，来试图完善我国的强制医疗制度。该部分算是本文的核心部分，基于论文前三章的铺垫，主要从明确适用条件、完善运行模式及权利救济、检察监督等三个方面来进行论述。

关键词：强制医疗；立法构建；实证分析；完善建议。

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ABSTRACT

March 14, 2012, the fifth meeting of the Eleventh National People's Congress adopted the fifth meeting "on the decision of on the revision of Criminal Procedure Law". The fourth part of new Criminal Procedure Law in a series of new provisions on establish the arrangement of compulsory medical treatment which related content of a society as a special safeguard measures. The revised criminal Procedure Law is to build a special chapter in the form of criminal compulsory medical treatment force with Chinese characteristics, medical procedures, The procedures for the protection of the security and stability of social significance and its value should be affirmed .But as a new judicial system, law-executors, or the masses due to its basic principles still exist cognitive bias, while China's current Criminal Procedure Law and its provisions are too simple, so there are many problems in practice, affecting its practical utility.

Besides the introduction and conclusion, it is divided into four chapters. The following main contents of each chapter are as follows:

The first chapter introduces the general theory of compulsory medical treatment. The part of the content preliminarily analyzes the concept of compulsory medical treatment, characteristics and application. In addition, it talks about the origin and the development of the compulsory medical treatment and explores the basic theory of the compulsory health and its significance.

The second chapter analyzes legislative construction of compulsory medical treatment in our country, including legislative background , our newly revised Criminal Procedure Law and the related interpretation.

The third chapter analyzes the compulsory medical treatment combined with empirical analysis and summarize the applicable objects , trial modes and the insignificances of the supervision system.

The fourth chapter tries to improve our compulsory medical treatment system on the basis of analysis and discussion above. It is the core of the article based on the

first three chapters of the thesis foreshadowing, mainly from the clear applicable conditions, the improvement of the operation mode and the right to relief and prosecutorial supervision.

Key Words: compulsory medical treatment; legislative Building; empirical analysis; suggestions for improvement

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