NEW BILLS WHICH AFFECT THE CRIMINAL PROCESS

As a result of the health alert decreed by the Ministry of Health and the subsequent declaration of a state of Constitutional Exception of Catastrophe in Chile, due to public calamity, several bills have been presented, which affect the criminal process, among others, bulletins N° 13.343-07 and 13.358-07.

Bill that Establishes a Legal Regime of Exception

On March 24th, 2020, the President of the Republic submitted a bill to the Chamber of Deputies, Bulletin No. 13,343-07, in order to establish a Legal Regime of Exception for judicial processes, hearings and proceedings, and related to terms for the exercise of actions, while the state of Constitutional Exception continues in place.

After the bill was reviewed and approved by the Chamber of Deputies and the Senate, on April 2nd, 2020, Law No. 21,226 was published in the Official Gazette, which establishes the following:

1. Orders the Supreme Court to issue the suspension of hearings in Criminal Courts, with the exception of detention control hearings, review of preventive imprisonment, provisional internment (minors), compliance with security measures, review and modification of sanctions under Law No. 18,216 and the enforcement of sentences against minors, among others that require the urgent intervention of the Court.
2. Allows requesting a new term for proceedings or exercise of actions or rights, based on an impediment generated by the public calamity or health emergency related to Coronavirus, in accordance with the provisions of Article 17 of the Criminal Procedural Code ("Código Procesal Penal").
3. Terms in Criminal Procedures will not be suspended, except for: terms related to activities after the closure of the investigation, Oral trial Court preliminary actions, opposition to "Juicio Monitorio", simplified oral trial opening resolution, the abandonment of the private criminal action, and terms linked to the closure of the investigation.

Bill that Grants a General Commutative Pardon

On March 25th, 2020, the President of the Republic submitted a bill to the Senate, Bulletin No. 13,358-07, to grant a general commutative pardon, as well as changes in the way sentences are served, due to the Covid-19 disease, enabling certain inmates that meet the requirements, to serve their convictions outside a prison.

After the bill was reviewed and approved by the Chamber of Deputies and the Senate, on April 17th, 2020, Law No. 21,228 was published in the Official Gazette, which establishes the following:

1. Convicts serving in prison can apply to fulfil the rest of their sentences in total house confinement, when meeting the following criteria:

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• Women of 55 years or elder.
• Men of 60 years or older.
• Regarding inmates older than 75 years, the pardon will be applied without the need to comply with any other condition.
• Pregnant women.
• Women who have a child under the age of two, who resides in the prison facility.

• Convicts serving in prison can apply to fulfil the rest of their sentences through a nocturnal house arrest, when meeting the following criteria:

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• Serving a sentence of nocturnal arrest.
• Serving a sentence of partial nocturnal arrest.
• Serving with a controlled release benefit.

• Convicts serving in prison benefiting with Sunday or weekend leave, can apply to fulfil their sentences in total house arrest, according to the following criteria:

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• For the remainder of the sentence, if the remainder of the sentence

is equal to, or less than, six months.
• For six months, if the remainder of the sentence is greater than six months.

Oher relevant aspects that will be considered when applying to the pardon:

1. type of offence for which they were convicted;
2. minimum percentage of time served;
3. time of the remaining sentence.