

**LAW OF THE REPUBLIC OF INDONESIA
NUMBER 13 OF 2006**

**CONCERNING
PROTECTION OF WITNESS AND VICTIM**

**WITH THE BLESSING OF GOD ALMIGHTY
PRESIDENT OF THE REPUBLIC OF INDONESIA,**

Considering:

- a. That one of the valid evidence in the criminal judiciary process is information of Witness and / or Victim who hear, see, or experience the occurrence of a crime in an effort to seek and find clarity about the crime committed by perpetrators of crime;
- b. That the law enforcer in searching and finding clarity on criminal acts committed by perpetrators of crime often have trouble because they could not present Witness and / or the Victim due to the threat both physically and psychologically from a particular party;
- c. That in connection with this, it is necessary to have protection for Witness and / or Victim which is very important in the criminal justice process;
- d. Based on the considerations set forth in letter a. letter b. and c, it is necessary to form the Law on Protection of Witnesses and Victims;

In view of:

1. Article 1 paragraph (3), Article 20. Article 21. Article 28G. Article 281 and Article 28J of the Constitution of the Republic of Indonesia Year 1945;
2. Law Number 8 of 1981 on Criminal Proceedings (State Gazette of the Republic of Indonesia Number 76 of 1981, Supplement to State Gazette of the Republic of Indonesia Number 3209); With the Collective Approval

**HOUSE OF REPRESENTATIVES OF THE REPUBLIC OF INDONESIA
and
PRESIDENT OF THE REPUBLIC OF INDONESIA
DECREED:**

Enact: THE LAW ON PROTECTION OF WITNESS AND VICTIM

**CHAPTER I
GENERAL PROVISIONS**

Article 1

In this law the following meanings:

1. The witness is a person who can provide information in the interest of the inquiry, investigation, prosecution, and examination in court on a criminal case he heard himself, he seen himself, and / or he has experienced himself;
2. Victim is a person who suffered physical, mental, and / or economic loss caused by a criminal offense;
3. Witness and Victim Protection Agency, hereinafter referred to as LPSK, is the LPSK tasked and authorized to provide protection and rights of others to Witness and / or Victim as set forth in this law;
4. The threat is any action that will produce, either directly or indirectly, which resulted in the Witness and / or the Victim to fear and / or forced to do or not do something regarding to giving testimony in a criminal justice process;
5. Family is the people who have blood relation in a straight line up or down and sideways to the line to the third degree, or who have a marriage relationship or person who is the dependent of Witness and / or Victim;
6. Protection is all effort of right fulfillment and providing assistance to provide sense of security to Witness and / or Victim that must be performed by the LPSK or other LPSK in accordance with the provisions of this law.

Article 2

This law provide protection to Witness and Victim in all stages of criminal judiciary process in the court.

Article 3

Witness and Victim Protection principle are:

- a. respect for human dignity;
- b. sense of security;
- c. justice;
- d. non-discriminatory, and
- e. legal certainty.

Article 4

Witness and Victim Protection aims to provide security to Witness and / or Victim in providing information in any criminal judiciary process.

CHAPTER II PROTECTION AND RIGHTS OF WITNESS AND VICTIM

Article 5

- (1) Witness and Victim entitled to:
 - a. obtain the protection of personal safety, family, and property, and free of Threat with respect to the testimony to be, being, or has been given;
 - b. participate in the process of selecting and determining the form of protection and security support;
 - c. provide information without any pressure;
 - d. to obtain an interpreter;
 - e. free from a trap question;
 - f. obtain information about the progress of the case;
 - g. obtain information regarding to court decision;
 - h. know if the convict is released;
 - i. get a new identity;
 - j. get a new residence;
 - k. obtain reimbursement of transportation costs in accordance with the requirements;
 - l. get legal advice and / or
 - m. get support about temporary living expenses until the time limit of protection expires;
- (2) The right referred to in paragraph (1) given to the Witness and / or Victim of criminal act in certain cases in accordance with the LPSK's decision.

Article 6

Victim of serious human rights violation, but is entitled to the rights referred to in Article 5, is also entitled to receive:

- a. medical assistance, and
- b. psycho-social rehabilitation assistance.

Article 7

- (1) Victim through the LPSK reserves the right to propose the court:
 - a. right of compensation in case of serious human rights violation
 - b. right of restitution or compensation which is the responsibility of perpetrators of criminal acts.
- (2) Decision on compensation and restitution awarded by the court;
- (3) The further provisions about grant of compensation and restitution stipulated by Government Regulation.

Article 8

Protection and the rights of Witness and Victim granted since the beginning stage of the investigation and ended in accordance with the provisions stipulated in this Law.

Article 9

- (1) Witness and / or Victim who feel themselves in a very serious Threat, with the approval of the judge can give testimony without direct present in the court where the case is being examined:

- (2) Witness and / or Victim referred to in paragraph (1) may provide a written testimony delivered before the competent authority and affix his signature on the minutes that contain testimony about it;
- (3) Witnesses and / or the Victim referred to in paragraph (1) can also be heard directly of his testimony by electronic means, assisted by the authorities.

Article 10

- (1) Witness, victim, and Informant cannot be prosecuted in both civil and criminal law on the report, the testimony to be, being, or has been given;
- (2) A Witness who is also a suspect in the same case cannot be freed from criminal charges if he was legally and convincingly proven guilty, but his testimony can be taken into consideration by a judge to ease the sentence to be imposed;
- (3) The provision referred to in paragraph (1) shall not apply to Witness, Victim, and Informant who give information not in good faith.

CHAPTER III PROTECTION OF WITNESS AND VICTIM AGENCY

Part One General

Article 11

- (1) LPSK is an independent institution;
- (2) LPSK located in the Capital of the Republic of Indonesia;
- (3) LPSK has representative in the region as appropriate.

Article 12

LPSK is responsible for handling the provision of protection and assistance to the Witness and Victim by the duty and authority as stipulated in this law.

Article 13

- (1) LPSK is responsible to the President;
- (2) LPSK makes regular reports on the performance of duties of the LPSK to the House of Representatives at least once within 1 (one) year.

Part Two Institutional

Article 14

Members of the LPSK consists of 7 (seven) people from the professional element who have experience in the promotion, fulfillment, protection, law enforcement and human rights, the Police, Attorney, Department of Justice and Human Rights, Academic, Advocates, or Non-governmental Organisation.

Article 15

- (1) The term of office of the LPSK member is within 5 (five) years.

- (2) After the end of the term of office referred to in paragraph (1), LPSK Members may be re-elected in the same position, only for 1 (one) subsequent term of office.

Article 16

- (1) LPSK consists of Leadership and Members;
- (2) LPSK Leadership consists of a Chairman and Vice Chairman concurrently as member;
- (3) LPSK Leadership elected from and by members of the LPSK;
- (4) Further provisions on procedures for the selection of LPSK Leadership are regulated by the LPSK Regulation.

Article 17

The term of office of the Chairman and Vice Chairman of the LPSK is within 5 (five) years and thereafter may be re-elected in the same position, only for 1 (one) subsequent term of office.

Article 18

- (1) In its operation, the LPSK is assisted by a secretariat in charge of providing administrative services for LPSK activities;
- (2) LPSK secretariat headed by a secretary who came from the Civil Service;
- (3) The Secretary shall be appointed and dismissed by Secretary of State Minister;
- (4) Further provisions on the status, composition, organization, duties, and responsibilities of the secretariat referred to in paragraph (1) are regulated by Presidential Decree;
- (5) Presidential Decree referred to in paragraph (4) determined no later than 3 (three) months since the LPSK was formed.

Article 19

- (1) For the first time the selection and election of members of the LPSK carried out by the President;
- (2) In conducting the selection and election referred to in paragraph (1), the President formed the selection committee;
- (3) The Selection Committee referred to in paragraph (2) consists of 5 (five) persons, including the following:
 - a. 2 (two) persons come from government element; and
 - b. 3 (three) persons come from the community element.
- (4) Members of the selection committee cannot be nominated as a member of the LPSK;
- (5) Further provisions concerning the composition of the selection committee, procedures for selection, and selection of candidates for the LPSK, governed by Presidential Decree.

Article 20

- (1) The Selection Committee proposes to the President a number of 21 (twenty one) candidates who have met the requirements;
- (2) The President choose as many as 14 (fourteen) people from a number of candidates referred to in paragraph (1) for submission to the House of Representatives;
- (3) The House of Representatives choose and approve the 7 (seven) of the candidates referred to in paragraph (2).

Article 21

- (1) The House of Representatives give the approval within a period of at least 30 (thirty) days from the date of submission of candidates for the LPSK is received;
- (2) In the event that The House of Representatives do not approve one or more candidates submitted by the President, within a period of at least 30 (thirty) days from the date of receipt of the submission of candidates for the LPSK, The House of Representatives shall notify the President accompanied by the reasons;
- (3) In the event that The House of Representatives do not give the approval referred to in paragraph (2), the President shall propose candidates for replacement of 2 (two) times the number of candidates who are not approved;
- (4) The House of Representatives shall give approval of the replacement candidate as referred to in paragraph (3), within a period of at least 30 (thirty) days from the date of submission of the replacement candidates is received.

Article 22

The President shall decreed the members of LPSK who has obtained the approval from The House of Representatives, within a period of at least 30 (thirty) days from the date of approval received by the President.

Part Three Appointment and Dismissal

Article 23

- (1) LPSK members are appointed by the President with the approval of The House of Representatives;
- (2) To be elected as a Member LPSK is required to:
 - a. citizen of Indonesia;
 - b. physically and mentally healthy;
 - c. never been sentenced for committing a criminal offense which its criminal threats at least 5 (five) years;
 - d. lowest age of 40 (forty) years and a maximum of 65 (sixty five) years old at the time of the election process;
 - e. having at least S 1 education (bachelor degree);
 - f. experienced in the field of law and human rights for a minimum of 10 (ten) years;
 - g. have integrity and a personality that is not dishonorable, and
 - h. have a taxpayer number.

Article 24

LPSK members are dismissed because of:

- a. death;
- b. his term of office has expired;
- c. at his own request;
- d. physical or mental illness which resulted he cannot perform the task for 30 (thirty) days continuously;
- e. committed a dishonorable act and / or other matters which by Virtue of the LPSK shall be suspended because it has tainted the dignity and reputation, and / or reduce the independence and credibility of the LPSK; or

- f. convicted for criminal offense which its criminal threats at least 5 (five) years.

Article 25

Further provisions on procedures for the appointment and dismissal of members of the LPSK shall be regulated by Presidential Decree.

Part Four Decision Making and Funding

Article 26

- (1) LPSK decisions are taken by discussion to reach a consensus;
- (2) In case the decision referred to in paragraph (1) cannot be reached, decisions are taken by majority vote.

Article 27

The cost required for the performance of LPSK duties imposed on the Budget of the State.



CHAPTER IV TERMS AND PROCEDURES GRANT OF PROTECTION AND ASSISTANCE

Part One Terms of Grant of Protection and Assistance

Article 28

The agreement of LPSK protection to the Witness and / or Victim of criminal act as defined in Article 5 paragraph (2) is given by considering the following requirements:

- a. the importance nature of Witness and / or Victim information;
- b. threat level which endanger Witness and / or Victim;
- c. the analysis result of the medical team or psychologist to Witness and / or Victim;
- d. track record of crimes ever committed by the Witness and / or Victim,

Part Two Procedures for Granting Protection

Article 29

The procedure for obtaining protection as referred to in Article 5 as follows:

- a. The Witness and / or Victim is concerned, either on his own initiative or on the request of the competent authority, apply in writing to the LPSK;
- b. LPSK promptly conduct an examination of the application referred to in letter a;

- c. LPSK decision given in writing at least 7 (seven) days from the petition of protection was submitted.

Article 30

- (1) In the case of LPSK accept the petition of Witness and / or Victim referred to in Article 29, the Witness and / or Victim signed a statement of willingness to follow the terms and conditions of the protection of Witness and Victim;
- (2) The statement of willingness to follow the terms and conditions of the Witness and Victim protection as referred to in paragraph (1) shall contain:
 - a. the willingness of Witness and / or Victim to testify in court proceedings;
 - b. the willingness of Witness and / or Victim to comply with the rules relating to safety;
 - c. the willingness of Witness and / or Victim for not making contact in any mean to someone other than the approval of LPSK, while he is under protection of LPSK;
 - d. the obligation of Witness and / or Victim is not to tell anyone about the existence under the protection of LPSK; and
 - e. other matters deemed necessary by the LPSK.

Article 31

LPSK shall give full protection to Witness and / or Victim, including his family, since the signing of the statement of willingness as referred to in Article 30.

Article 32

- (1) Protection of the security of Witness and / or the victim can only be terminated on the grounds of:
 - a. Witness and / Victim asked for protection against him was stopped in case the application was submitted on his own initiative;
 - b. at the request of the competent authority in terms of request for the protection of Witness and / Victim based on the request of the relevant authority;
 - c. Witness and / Victim violated the provisions as written in agreement; or
 - d. LPSK believes that the Witness and / or Victim no longer require protection under the convincing evidence;
 - e. Termination of the security protection of a Witness and / or Victim must be in writing.

Part Three

Procedures for Providing Assistance

Article 33

Assistance referred to in Article 6 is granted to a Witness and / or Victim upon written request of the concerned or his representative to the LPSK.

Article 34

- (1) LPSK determine the feasibility of assistance granted to the Witness and / or Victim;
- (2) In the case of Witness and / or Victim worthy of granted assistance, the LPSK determines the duration and the amount of the required expenses;
- (3) Further provisions on the feasibility as referred to in paragraph (1) as well as the duration and amount of expenses referred to in paragraph (2) is regulated by the Government.

Article 35

LPSK's decision regarding the provision of assistance to the Witness and / or Victim must be notified in writing to the concerned no later than 7 (seven) working days from receipt of the request.

Article 36

- (1) In performing the provision of protection and assistance, the LPSK may cooperate with the competent agencies;
- (2) In performing the protection and assistance as referred to in paragraph (1), the relevant agencies in accordance with their authority obligatory to implement the LPSK's decision in accordance with the provisions stipulated in this law.

CHAPTER V CRIMINAL PROVISIONS

Article 37

- (1) Any person who impose his will either uses violence or uses certain ways, which led to the Witness and / or Victim does not receive protection as referred to in Article 5 paragraph (1) letter a or letter d thus the Witness and / Victim not to testify at any stage of the examination, shall be punished with imprisonment for at least 1 (one) year and a maximum of 5 (five) years and fined at least Rp. 40.000.000,00 (forty million rupiahs) and a maximum of Rp. 200.000.000,00 (two hundred million rupiahs);
- (2) Any person doing the will of coercion referred to in paragraph (1) causing serious injury to the Witness and / or Victim, shall be punished with imprisonment for at least 2 (two) years and maximum 7 (seven) years and fined at least Rp. 80.000.000,00 (eighty million rupiahs) and at most Rp. 500.000.000,00 (five hundred million rupiahs);
- (3) Any person doing the will of coercion referred to in paragraph (1) thus resulting in the death of Witness and / or Victim, shall be punished with imprisonment for at least 5 (five) years and a maximum for whole lifetime and fined at least Rp. 80.000.000,00 (eight million rupiahs) and at most Rp. 500.000.000,00 (five hundred million rupiah).

Article 38

Any person who obstructs in any way, so that the Witness and / or Victim does not receive protection or assistance, as referred to in Article 5 paragraph (1) letter a and d, Article 6 or Article 7 paragraph (1), shall be subject to imprisonment for 2 (two) years and maximum 7 (seven) years and fined at least Rp. 80.000.000,00 (eight million rupiahs) and at most Rp. 500.000.000,00 (five hundred million rupiahs).

Article 39

Any person who causes the witness and / or the victim or her family lost their jobs because of the witness and / or the victim is giving testimony that was in the process of justice, shall be punished with imprisonment for 2 (two) years and maximum 7 (seven) years and fined at least Rp.80.000.000, 00 (eighty million rupiahs) and at most Rp.500.000.000, 00 (five hundred million rupiah).

Article 40

Any person who causes loss or reduction of the rights of Witness and / Victim referred to in Article 5, Article 6, or Article 7 paragraph (1) because of the Witness and / Victim give true testimony in court proceedings, shall be punished with imprisonment at 1 (one) year least and maximum 3 (three) years and fined at least Rp. 30.000.000,00 (three million rupiahs) and at most Rp. 100.000.000,00 (one hundred million rupiah).

Article 41

Any person who tells the presence of Witness and / or Victim who were protected in a special place kept secret by the LPSK as referred to in Article 5 paragraph (1) letter j, shall be punished with imprisonment for at least 3 (three) years and a maximum of 7 (seven) years and fined at least Rp. 80.000.000,00 (eight million rupiahs) and at most Rp. 500.000.000,00 (five hundred million rupiah).

Article 42

In the case of acts as referred to in Article 37, Article 38, Article 39, Article 40 and Article 41 committed by public officials, criminal threats added with 1/3 (one third).

Article 43

- (1) In the event that the convict cannot afford to pay a fine as referred to in Article 37, Article 38, Article 39, Article 40, Article 41 and Article 42 is replaced by a fine of imprisonment of at least 1 (one) year and maximum 3 (three) years;
- (2) Imprisonment as the substitute of fine as referred to in paragraph (1) included in the ruling of the judge.

CHAPTER VI TRANSITIONAL PROVISION

Article 44

At the time this law was enacted, the legislation governing the protection of Witness and / or Victim shall remain in force as long as not contrary to this law.

**CHAPTER VII
CLOSING PROVISION**

Article 45

LPSK shall be established at least 1 (one) year after the promulgation of this law.

Article 46

This Act shall come into force on the date of promulgation.

For the information, it is ordered that this legislation be promulgated in the State Institute of the Republic of Indonesia,



Promulgated in Jakarta
on August 11, 2006

**MINISTER OF JUSTICE AND HUMAN RIGHTS
THE REPUBLIC OF INDONESIA,**

Signed

HAMID AWALUDIN

GAZETTE OF REPUBLIC OF INDONESIA NUMBER 64 OF 2006

**EXPLANATION
LAW OF THE REPUBLIC OF INDONESIA
NUMBER 13 OF 2006**

**ON
PROTECTION OF WITNESS AND VICTIM**

I. GENERAL

The success of the criminal judiciary process relies heavily on evidence that had successfully revealed or discovered. In the trial process, especially with regard to the Witness, many cases were not revealed due to the absence of witness who can support law enforcer duties. In fact, the existence of a Witness is a crucial element in the criminal judiciary process. The presence of the Witness and Victims in the criminal judiciary process has been less public attention and law enforcer. The cases that are not revealed and many unresolved due to the Witness and Victim are afraid to testify to the law enforcer because of under threat of a particular party.

In order to foster the participation of the public to uncover any criminal act, it is necessary to create a conducive environment by providing legal protection and security to any person who knows or finds something that may help unravel the criminal act that has occurred and report the matter to law enforcer. Such informant should be given proper legal protection and security on the report, so he is not feel to be threatened or intimidated by both the right and his soul. With the guarantee of legal protection and security, it is expected to create a condition which allows people for no longer feel afraid to report the criminal act he knows to law enforcer, because of worrying or fear of his life is threatened by a particular party.

Witness and Victim Protection in the criminal judiciary process in Indonesia has not specifically regulated. Article 50 through Article 68 of Law No. 8 of 1981 on Criminal Procedural Law only regulates the protection of the suspect or the accused to be protected from a variety of possible violations of human rights. Therefore, it's time for Witness protection is regulated by a separate law.

Based on the principle of equality before the law, which became a feature of state law, the Witness and Victim in the criminal judiciary process should be guaranteed protection of the law. The main content material provided in the Law on Protection of Witness and Victim include:

1. Protection and rights of Witness and Victim;
2. Witness and Victim Protection Agency;
3. Terms and procedure of granting protection and assistance, and
4. Criminal provisions.

II. EACH ARTICLE

Article 1

Self explanatory.

Article 2

Self explanatory.

Article 3

Self explanatory.

Article 4

Self explanatory.

Article 5

Paragraph (1)

Letter a

Such protection is the primary protection which is required by the Witness and Victim. If necessary, a Witness must be placed in an undisclosed location than anyone to ensure that witness and victim safe.

Letter b

Self explanatory.

Letter c

Self explanatory.

Letter d

This right is granted to Witness and Victim who are not fluent speaks Indonesian to expedite the trial.

Letter e

Self explanatory.

Letter f

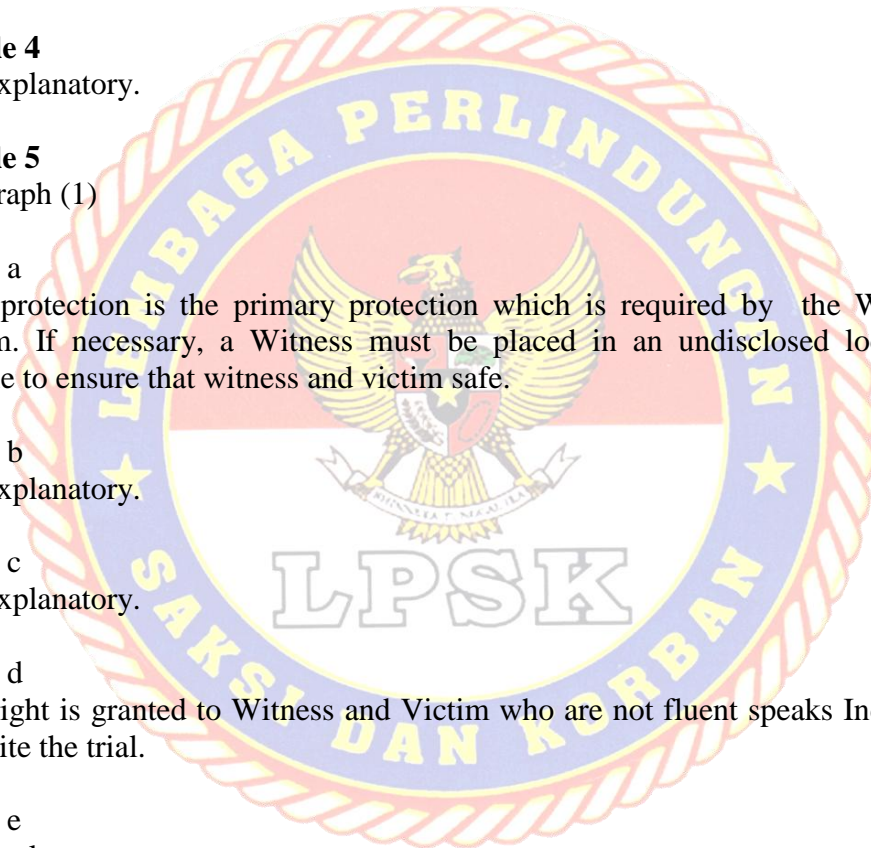
Witness and Victim are often only play a role in giving testimony in court, but the Witness and Victim do not know the progress of the case. Therefore, it should be given information about the case to the Witness and Victim.

Letter g

This information is important to be known by Witness and Victims as a form of appreciation for the willingness of Witness and Victim in the judicial process.

Letter h

Witness and victim fear on retaliation from the defendant is reasonable, and he is entitled to be told if a convicted person who is sentenced to prison will be freed.



Letter i

In many cases, particularly those involving organized crime, Witness and Victim can be threatened even if the defendant was convicted. In certain cases, Witness and Victim may be given a new identity.

Letter j

- If the security of Witness and Victim has been very worrying, giving a new residence to the Witness and Victims should be considered so that the Witness can continue their lives without fear;
- The term "new residence" is a specific place that is temporary and is considered safe

Letter k

Witness and Victim who could not afford him to come to the location, should receive expense assistance from the state.

Letter l

What is meant by "legal advice" is legal advice which needed by Witness and Victim if required.

Letter m

What is meant by "temporary living expenses " is expenses which is appropriate to the situation faced at the time, for example, costs for daily meals.

Paragraph (2)

What is meant by "certain cases", among others, corruption, narcotics / psychotropic drugs crime, criminal acts of terrorism and other criminal acts that resulted in the position of the Witness and Victim are faced with a situation that is very endanger his life.

Article 6

Letter a

Self explanatory.

Letter b

What is meant by " psycho-social rehabilitation assistance " is assistance provided by a psychologist to Victims who suffering from trauma or other psychiatric problem to relief Victim's psychiatric conditions.

Article 7

Self explanatory.

Article 8

Self explanatory.

Article 9

Paragraph (1)

What is meant by "very serious Threat " is a threat that led to the witness and / or the victim can not testify.

Paragraph (2)

The term "competent authority" is the investigator in accordance with the provisions of the legislation.

Paragraph (3)

The presence of these authority is to ensure that Witness and / Victim is not in force or coercion when the Witness and / or Victim to give testimony,

Article 10

Paragraph (1)

The definition of "informant" is a person who provides information to law enforcer regarding the occurrence of a crime.

Paragraph (2)

Self explanatory.

Paragraph (3)

What is meant by "give information not in good faith" in this provision, among others, to give false testimony, perjury, and the evil plot.

Article 11

Paragraph (1)

What is meant by "independent institution" is an independent institution, without interference from any parties.

Paragraph (2)

Self explanatory.

Paragraph (3)

Self explanatory.

Article 12

Self explanatory.

Article 13

Self explanatory.

Article 14

Self explanatory.

Article 15

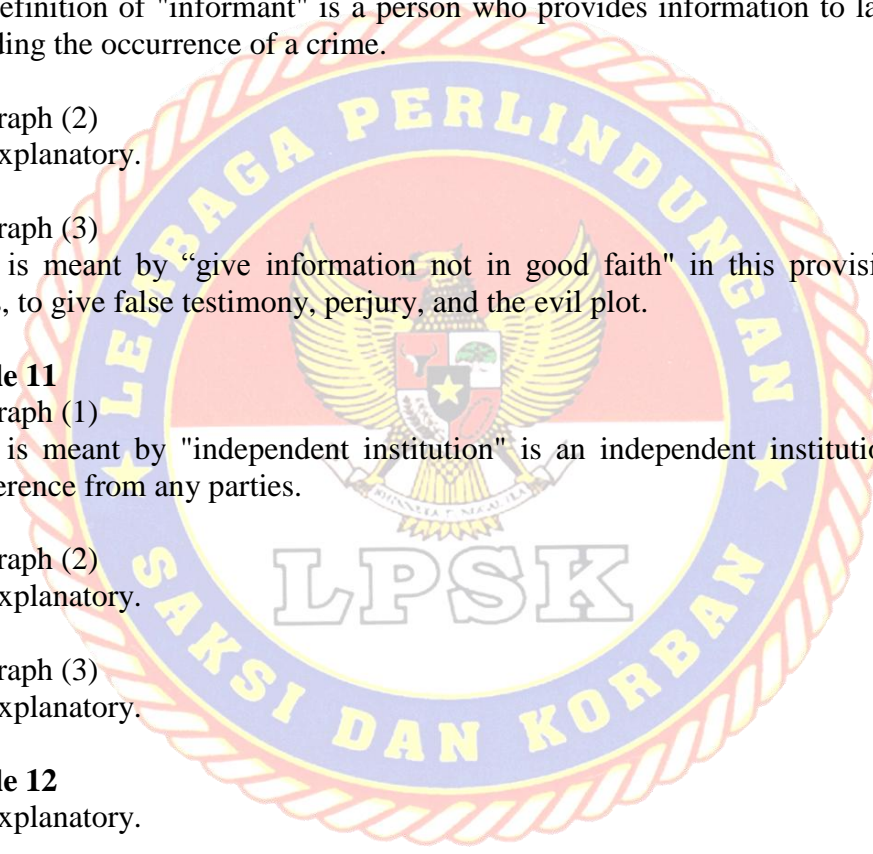
Self explanatory.

Article 16

Self explanatory.

Article 17

Self explanatory.



Article 18

Self explanatory.

Article 19

Self explanatory.

Article 20

Self explanatory.

Article 21

Self explanatory.

Article 22

Self explanatory.

Article 23

Self explanatory.

Article 24

Self explanatory.

Article 25

Self explanatory.

Article 26

Self explanatory.

Article 27

Self explanatory.

Article 28

Self explanatory.

Article 29

Self explanatory.

Article 30

Paragraph (1)

Self explanatory.

Paragraph (2)

Letter a

Self explanatory.

Letter b

Self explanatory.

Letter c

This provisions intended to protect Witness and / or Victims of the various possibilities that would weaken the protection to him.



Letter d
Self explanatory.

Letter e
Self explanatory.

Article 31
Self explanatory.

Article 32
Self explanatory.

Article 33
Self explanatory.

Article 34
Self explanatory.

Article 35
Self explanatory.

Article 36
Paragraph (1)
The definition of "competent agencies" are government and non-governmental agencies or non-governmental organizations which have the capacity and right to provide assistance either directly, or indirectly, to support LPSK performance, which its presence is required and approved by the Witness and / or Victim.

Paragraph (2)
Self explanatory.

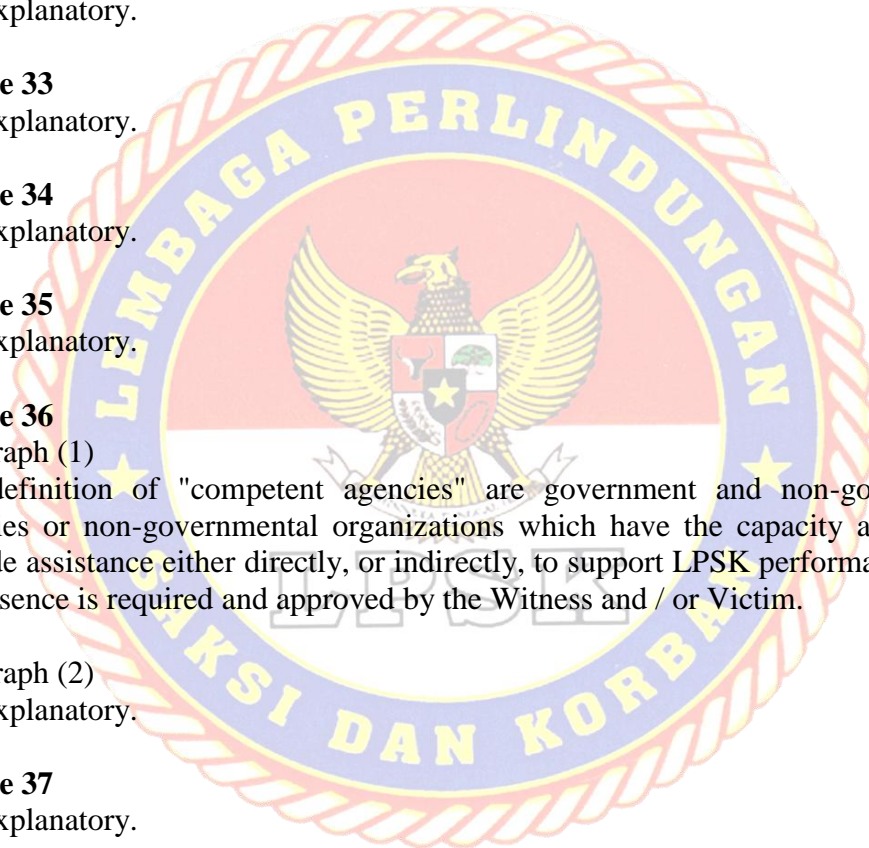
Article 37
Self explanatory.

Article 38
Self explanatory.

Article 39
Self explanatory.

Article 40
Self explanatory.

Article 41
Self explanatory.



Article 42

The definition of "public official" is the state officials and state administrators who perform the function of the executive, legislative, or judicial, and other official functions and duties related to the operation substantially in accordance with the provisions of state laws and regulations.

Article 43

Self explanatory.

Article 44

Self explanatory.

Article 45

Self explanatory.

Article 46

Self explanatory.



ADDITIONAL GAZETTE OF REPUBLIC OF INDONESIA NUMBER 4635