

THESIS TITLE	PROBLEMS OF LAW ENFORCEMENT UNDER SECTION 285 OF PENAL CODE: CASE STUDY OF PERSON EXERCISING PARENTAL POWER
KEYWORDS	GROUND TO INCREASE PUNISHMENT, PERSON EXERCISING PARENTAL POWER, PERSON UNDER ONESELF'S GUARDIANSHIP, ASSISTANT
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ABSTRACT

A problem of commission of sexual offense is so significant in Thai society especially a commission against person under oneself's guardianship. Grounds to increase punishment under Section 285 of Penal Code limit to only the commission against person under legal guardianship. In addition, criminal liability does not cover family member who may involve in the commission by supporting it. As a result, there is a gap of law and its enforcement despite the fact that the commission of sexual offense occurs not only against person under legal guardianship but also against other people such as the commission against stepchild, adopted child or relatives who is under the offender's de facto guardianship. In this regard, the commission of sexual offense against person being under the offender's de facto guardianship is not protected by the grounds to increase punishment under Section 285 of Penal Code. Accordingly, the law enforcement towards the commission of sexual offense by the person exercising parental power is inefficient and not enough to solve such commission in Thai society. This article is developed from a search, analysis and comparison of the law enforcement towards grounds to increase

punishment in the offense relating to sexuality, Section 285 of Penal Code in case of person exercising parental power and in laws of foreign countries i.e. the Republic of France, the United States of America and the Federal Republic of Germany. Such research process includes related concept, theory and principle of law to find a way of solution of such commission.

The research finds some suggestions i.e. the law enforcement towards grounds to increase punishment in the offense relating to sexuality, Section 285 of Penal Code should include the commission against person being under the offender's de facto guardianship and the penalty should include parents and other family members being supporter of such offending commission. Other legal measure should be also applied such as a reporting to probation officer, a community therapy in order to solve inefficient law enforcement, suppress and prevent the commission of sexual offence in such nature.

Accordingly, Section 285 of Penal Code should be amended by adding paragraph two to define persons under guardianship and to extend a commission of sexual offense by persons exercising parental power de facto and by adding criminal liability of parents and family members who involve knowingly by acting as co-principal or supporter of the commission of sexual offense in paragraph three of Section 285.