

Abstract

ILHAM DJAYA; NPM, 17730150, Application Of Diversion To Problematic Children With Law (Approach Case Decision Number 29 / PID.SUS-ANAK / 2019 / PN.BGL), Dissertation under the guidance of Prof. Dr. H. Faisal Santiago, SH., MM as Advisor and Dr. Petrus Irwan Panjaitan, SH., MH, as co. Advisor.

Child protection aims to ensure the fulfillment of children's rights so that they can live, grow, develop, and participate optimally in accordance with human dignity and dignity, and receive protection from violence and discrimination, for the realization of quality, noble, and prosperous Indonesian children. The state and government are obliged and responsible to respect and guarantee the basic rights of every child, as well as the legal status of children, who have problems with the law. Legal protection must be provided by state law enforcement officers based on laws and regulations, specifically Law Number 23 of 2002 concerning Child Protection and Law Number 11 of 2012 concerning the Child Criminal Justice System. This Dissertation Problem: First; Why Law Enforcement does not apply diversion to children who have legal problems? Second; Is the District Court Decision Number 29 / Pid.Sus-Anak / 2019 / PN. Bgl is in accordance with the applicable laws and regulations? This study uses a normative legal approach, which utilizes secondary legal materials as well as qualitative normative analysis supported by library data to complement solving studies.

The result of this research show the children have problems with the law, related to the approach to the case of District Court Decision Number 29 / Pid. Sus-Anak / 2019 / PN. Bgl. First, the implementation of diversion in the criminal justice system process has not fully complied with Law Number 11 of 2012 concerning the Child Criminal Justice System, as well as Law Number 23 of 2002 concerning Child Protection. Investigators, prosecutors and judges do not carry out their obligations to children to enforce diversion, given reasons, because the child commits a criminal offense and the law is above 7 (seven) years. Second, related to the approach of the case of District Court Decision Number 29 / Pid. Sus-Anak / 2019 / PN. Bgl, it turned out that the reason was not proven. According to the author of the Decision of the District Court Number 29 / Pid. Sus-Anak / 2019 / PN. Bgl, it is alleged that it violated Law Number 11 of 2012 concerning the Criminal Justice System for Children, specifically Article 7, Article 10 and Article 32, and Article 96. In order for Investigators, Jakasa Public Prosecutors and Judge assemblies to be given better information on how the State' responsibility and protection of children.

Keywords: Application of Diversion