

## Legal Protection for Children in the Judicial System at the Medan District Court

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### ABSTRACT

This study discusses who is referred to as a child in legal protection in the Medan District Court system. According to Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, a child who is not yet 18 years old and not married, what are the considerations of the legal aspects of children so that they are given legal protection. And knowing the application of legal protection for children in the judicial process at the Medan District Court. This study examines collecting through interviews, additional information that supports legal analysis. legal practices. This study also found that children's rights such as the right to be heard, the right to receive protection and about children's rights, the implementation of the obligations of parents, family, society, government, and the state to provide protection for children. This study also found that children's rights such as the right to be heard, the right to receive information, and the right to receive protection have been fulfilled during the judicial

## **INTRODUCTION**

Children have dignity, honor, and human rights, therefore we must protect them. The 1945 Constitution and the Convention on the Rights of the Child state human rights. Because children are the future of the nation and state, children have the right to live, grow, develop, participate, and be protected from violence, discrimination, and human rights.

Child protection laws are still needed by parents, families, communities, governments and the state, even though Law No. 39/1999 on Human Rights already protects children. Child protection in all its forms is very important for the growth and progress of the nation, which is why this law was passed.

Legally, parents, families and communities must safeguard human rights. The state and government must provide convenience and accessibility for children to optimize and direct the growth of child protection.

This effort is made to provide children with the greatest possible life so that they can inherit a strong nation, with high morals, a national spirit based on Pancasila, and national unity and integrity. From the womb to the age of 18, children must be protected. The 1945 Constitution of the Republic of Indonesia guarantees every child the right to survival, growth and development, and protection from violence and prejudice.

Children as buds, candidates, and the next generation of the nation have strategic functions, qualities, and natures that need to be protected from all forms of harsh treatment that violate human rights.

However, the personality of the so-called child is not yet able to think stably because it is still within the scope of personality or mental development so that it needs to be protected in the hope that the development of personality or psychology leads to a good personality or psychology after the child matures.

The protection referred to in this case includes the legal provisions, where every child in Indonesia even though they have committed a criminal offense or crime by criminal law is still protected both from the side of the movement of the sentence to be imposed will be lighter than for adults, or examining the criminal acts committed by children, especially until the trial procedure for children is different from the trial procedure for adults, where minors are considered more serious.

To understand and see the reality of the protection afforded to children who commit criminal acts in the judicial process, we have chosen this title: **“Legal Protection for Children in the Medan District Court System.”**

## LITERATURE REVIEW

### Theoretical Framework and Concepts

#### a. Theoretical Framework

- **Legal Certainty:** With clear norms that can be used as guidelines for people who are subject to these regulations, people can apply the law firmly and clearly.
- **Justice:** Justice in law means balance, equality, and fairness for everyone in the legal system.
- **The Purpose of Law: Utility:** Of the three theories of the purpose of law above, the one that is most appropriate for the title of this research is the theory of the purpose of law for the benefit of society.

#### b. Conceptual Framework

- **Protection:** Protection means efforts to guarantee individual rights through regulations and laws.
- **Law:** Law is a rule that regulates human behavior.
- **Towards:** Towards means attitude or way of seeing.
- **Children:** Children are younger, or underage.
- **In:** In is truly (about science and so on).
- **System:** A system or order is a group of components that work together to transfer information, material, or energy to achieve a goal.
- **Judiciary:** The judicial process is the process of examining, adjudicating, and deciding cases by applying and/or discovering the law "in concreto" (judges apply legal regulations to real matters brought before them for adjudication and decision) to uphold and ensure compliance with substantive law, using procedural methods established by formal law.
- **At the District Court of Medan:** The location of the judicial process within the legal jurisdiction of the city of Medan.

Based on the following words, the title of this study means that in a judicial system that examines, decides, and adjudicates using laws, protection means preventing anything that could harm children. The jurisdiction of Medan regulates the judicial process. The police are obliged to protect the community mentally and physically from disturbances and threats.

Legal protection safeguards the dignity, honor, and human rights of legal subjects based on authority, norms, or standards that distinguish one thing from another. Thus, the law protects an individual's rights from being violated.

Protection is limited by law. The law protects human rights and obligations towards others and the environment. Legal subjects must take action. Setiono defines legal protection as an activity or effort to secure the community from arbitrary actions by authorities that violate the law, in order to achieve order and peace so that humans can enjoy their dignity and respect.

## **METHODOLOGY**

### **Type of Research**

Qualitative research is descriptive and analytical. This research emphasizes process and meaning by using a theoretical framework to focus on field data.

The theoretical framework also describes the background of the research and discusses its results. Qualitative research requires in-depth analysis, so researchers must participate in the events being studied. Primary data for qualitative research comes from interviews and observations.

### **Data Sources**

#### **a. Primary Book Materials**

- Law of the Republic of Indonesia Number 23 of 2002 concerning Child Protection.
- Law of the Republic of Indonesia Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection.
- Law of the Republic of Indonesia Number 17 of 2016 concerning the Stipulation of Government Regulation in Lieu of Law Number 1 of 2016 concerning the Second Amendment to Law Number 23 of 2002 concerning Child Protection into Law.

#### **b. Secondary Book Materials**

Secondary book materials are data obtained from various sources such as journals, websites, and others.

#### **c. Tertiary Legal Materials**

Tertiary legal materials are legal dictionaries and materials from the internet.

### **Data Collection Techniques Observation**

#### **a. Author's Observations**

Conducting direct observations of the matters under investigation during juvenile criminal trials at the Medan District Court.

#### **b. Interviews**

The descriptive method used by the author is to communicate directly with the results of juvenile trials at the Medan District Court.

#### **c. Documentation**

In the juvenile courtroom of the Medan District Court, researchers can use existing sources to support their research and gain a deeper understanding of the issue without directly collecting data through observation or interviews.

### **Data Analysis**

Qualitative data analysis involves a careful search of interview findings, field notes, and other materials to obtain understandable data.

## RESULT AND DISCUSSION

### What is Meant by a Child Under Legal Protection in the Medan District Court System

From a legal perspective, there is no uniformity in the discussion of the age of children in legal provisions. The following are the age limits defined as children in several legal provisions.

- a. According to Criminal Law: Article 45 of the Criminal Code states that "If a child is charged with an act committed by a person under the age of 16." According to the above article, the Criminal Code defines a child as an individual under the age of 15.
- b. According to Civil Law: Based on Article 330 of the Civil Code, which states, "If a person is considered an adult, they must be at least 21 years old or have been married." From this provision, it can be said that a child or minor is someone who is 20 years old or younger and has not been married.
- c. According to Law No. 3 of 1997: Article 1(1) defines a child as "a person who, in cases of juvenile delinquency, has reached the age of at least 8 (eight) years but has not yet reached the age of 18 (eighteen) years and has never been married." This means that, according to this law, a child is defined as someone under the age of 17 and can be tried in court if the child is at least 8 years old.
- d. According to Law No. 23 of 2002: Article 1 paragraph 1 defines a child as "a person under the age of 18, including a child in the womb." This law protects minors. From the provisions in question, it can be said that a child is a fetus in a woman's womb up to the age of 17. The affirmation of this law, which states that it includes children who are still in the womb, is within the scope of child protection as viewed from the provisions of child protection under civil law because if inheritance has been opened, a child in the womb is considered by law to have become an heir and cannot fulfill the subjective requirements as a perpetrator of a criminal act.
- e. According to Law No. 11 of 2012: Article 1(3) of this Law defines the juvenile criminal justice system as follows: "A child in conflict with the law, hereinafter referred to as a child, is a child who has reached the age of 12 (twelve) years but has not yet reached the age of 18 (eighteen) years and is suspected of having committed a criminal offense." From this clarification, the children who can be tried under the juvenile criminal justice system are those aged 12 to 17 years.

Based on our interview at the Medan District Court Class I A Special on May 7, 2025, with a juvenile judge named Hendra Hutabarat, SH., MH. He stated that the age limit for a child to be considered a perpetrator of a criminal offense at the Medan District Court Class I A Special is up to 17 years old, and if they are one day older, they are considered an adult. The maximum penalty for a child is half that of an adult, or a maximum of 10 years, not exceeding that.

According to Law No. 11 of 2012 on the Juvenile Justice System, the term “child” in the context of legal protection for child offenders in the Medan District Court refers to individuals aged 12 to 18 years.

### **Legal Protection for Children So That They Are Given Legal Protection in the Judicial System at the Medan District Court**

Considering the considerations for the enactment of Law No. 11 of 2012 on the criminal justice system for children, it is explained that:

- God has given us children with dignity and worth as human beings.
- Children are entitled to special protection, including legal protection in the justice system, to maintain their dignity and worth.
- Indonesia is a State Party to the Convention on the Rights of the Child, which regulates the principles of legal protection for children and mandates the provision of special protection for children in conflict with the law;
- Law No. 3 of 1997 governing the Juvenile Court is outdated and no longer adequate in protecting children in conflict with the law, and therefore must be amended;
- Based on the considerations referred to in points a, b, c, and d, it is necessary to formulate a Law on the Criminal Justice System for Children; it can therefore be said that the legal considerations regarding children that warrant legal protection in the judicial system at the Medan District Court are:
  - a) The legal aspect of children is a gift from God Almighty as a complete human being that every religion and belief in Indonesia has a view that a child is a gift from God Almighty, whereby every parent is legally obliged to care for, raise, and protect them; The protection of children, based on the protection afforded to parents, should also be taken into consideration by the state in the enactment of laws, as stipulated in Law No. 11 of 2012. We, the authors, believe that this is very appropriate
  - b) The legal aspect of protecting the dignity and rights of children to obtain legal protection within the judicial system. According to criminal law theory, a perpetrator of a criminal act is essentially defined as someone who fulfills the subjective element of criminal liability, which is the element of fault. A criminal offender is deemed

guilty if they can distinguish between right and wrong or what is permissible and impermissible. This is considered an element of culpability in the criminal offender because Article 44 of the Criminal Code states that an abnormal mind cannot be punished with criminal penalties. Just as a child who commits an act that is not yet stable in considering whether the act is good or bad, or in other words, the act is not entirely the result of their own reasoning, and the act may have been driven by factors outside the child's personality in accordance with their dignity, the law deems it appropriate to grant them the right to protection, including leniency in sentencing compared to adult offenders. especially in this case within the criminal justice system.

- c) Legal aspects of Indonesia as a member of the Convention on the Rights of the Child Every country that participates in an agreement between several countries, in this case Indonesia as a member of the Convention on the Rights of the Child, has agreed to provide legal protection for children, which must be implemented by every member country. In order for this agreement to be applicable in each country, it must be regulated in a legal provision. Thus, Indonesia has incorporated this agreement into a law, as stipulated in Law No. 11 of 2012, which is referred to as the law on the criminal justice system for children. Based on an interview conducted by the author on May 7, 2025, at the Medan Class I A Special District Court, it was stated that children must be protected by law in judicial institutions: The principle of the best interests of the child, as referred to in Article 3 of the Law on the Criminal Justice System for Children, states that every child who comes into contact with the law has the right to be treated humanely, with dignity, and to have equal rights. The right to grow and develop, as the future generation of the nation, children have the right to improve themselves and reintegrate into society. Restorative justice, in juvenile justice, places greater emphasis on rehabilitation than punishment. Protection of human rights, the 1945 Constitution and the UN Convention on the Rights of the Child, which Indonesia has adopted, provide vulnerable children with the right to protection of their human rights. The Principle of Differentiation in Juvenile Criminal Law distinguishes between juvenile offenders and adult offenders in the judicial process, sentencing, and rehabilitation institutions. This explanation by the Juvenile Court Judge of Class I A Special District Court of Medan outlines the juvenile criminal justice system according to Law No. 11

of 2012. Thus, Law No. 11 of 2012 regulates juvenile criminal justice at the Special Class I A District Court of Medan, particularly in protecting child offenders.

### **Application of Legal Protection for Children in the Judicial Process at the District Court of Medan.**

The author's research is limited to cases where children commit criminal offenses and are handled by the Medan District Court, facing sentences exceeding seven years or failed diversion.

- **Transfer of Case Files to the Medan District Court**

Even though the crime was committed by a minor, Article 140 paragraph 1 of the Criminal Procedure Code requires the public prosecutor to immediately prepare an indictment because the indictment is the basis for a criminal case and examination and trial by a judge. The case transfer letter was sent to the Medan District Court for immediate trial while the public prosecutor was preparing the indictment. The defendant receives the case transfer letter. The public prosecutor at the Medan District Court submits the transfer of criminal case files where the perpetrator is a child through the integrated one-stop service (PTSP) at the Medan District Court. The criminal court clerk then registers the criminal case files by assigning a case number and submits them to the Chief Judge of the Medan District Court, who proceeds to appoint a single judge or panel to examine and adjudicate the case.

- **Appointment of a Single Judge or Panel**

The Supreme Court's decision appointed juvenile judges to adjudicate criminal cases involving children because they have experience as judges in the general court system, interest, concern, dedication, and understanding of children's issues, as well as technical training in juvenile justice. Thus, it can be said that a juvenile judge is not only required to have a law degree but must also possess knowledge of psychology and sociology to understand the mental state of children, with the hope that juvenile judges will participate in their upbringing and assist them by considering children in difficult circumstances.

- **The Trial Process for Juvenile Criminal Cases**

The deputy clerk of the juvenile criminal court assists the judges. The judge orders a community counselor from the Ministry of Law and Human Rights to report the results of their research before the first hearing. Only then will the judge begin and end the hearing. The guardian or foster parent, legal counselor, and community counselor accompany the defendant to court.

Judges, prosecutors, and other officials do not wear robes, so trials are family-oriented. The Juvenile Criminal Justice System Act allows judges to imprison child defendants for 10 days, which can be extended by the Chief District Court Judge to 15 days. Children must be released if the judge does not decide within that time frame.

The judge asks the public prosecutor whether the guardian/foster parent is present at the beginning of the trial. This helps to assess the child's background and motivation. If the guardian/foster parent cannot be present, the trial will be postponed until they can attend, but if not, the trial may proceed without them. The judge or Chief Justice must review the indictment to identify the child as the defendant before directing the public prosecutor to read it. Establishing certainty and/or appropriateness is very important. After that, the judge or Chief Justice asks the public prosecutor to read the indictment to the child. Based on the results of the examination, the Public Prosecutor reads the indictment as a case in accordance with the evidence, and it is clear that the elements of the criminal offense formulated in certain articles of substantive criminal law have been fulfilled. Thus, the indictment can be used to assess the case. The judge or Chief Justice asks the young defendant if he or she understands the indictment after the Public Prosecutor has read it. The judge or Chief Justice asks the Public Prosecutor to explain if not.

Once the child defendant understands and comprehends the charges, before the public prosecutor proves the charges, the judge or chief judge first asks the Correctional Institution (BAPAS) to read out the report on the results of the assessment conducted by Bapas during the guidance, supervision, and assistance provided to the accused child during the trial, as BAPAS also conducted a social investigation for the benefit of the child involved in the criminal case. This report is an important consideration for the judge or the Presiding Judge in imposing a sentence.

Next, the Supreme Court judge or Chief Justice presiding over the juvenile criminal case orders the prosecution to present its case. The evidence shows that the defendant has committed a criminal offense. Law No. 11 of 2012 on the Juvenile Criminal Justice System does not regulate the sufficiency of evidence required to prove a criminal case, so Article 183 of the Criminal Procedure Code applies, which requires at least two pieces of evidence stating that law enforcement officials, particularly judges, believe that a criminal act has occurred and that the defendant is a child. The evidence referred to in Article 184 of the Criminal Procedure Code includes witnesses, experts, documents, indications, and the defendant's statements.

The public prosecutor reads the indictment after proving the criminal act committed by the child. The public prosecutor must conclude that the indictment or one of the indictments has been proven and request the judge or panel of judges to declare that the child defendant has legally committed the criminal act charged and impose a basic penalty, such as a warning, a conditional sentence, or guidance outside the institution. Additionally, confiscating the proceeds of illegal activities or resolving customary responsibilities may be done.

At the request of the Public Prosecutor, the defendant is given the opportunity to defend themselves, either individually with legal counsel or with their parents, either by refuting the criminal charges or the sentence demanded, with arguments based on the facts of the trial that are considered proven by the defendant. It may also take the form of an admission of guilt and a pledge not to repeat the offense, coupled with a request for leniency in sentencing.

The criminal trial of a child ends with a judge's decision. The judge or panel of judges must consider the psychological condition of the child at the time of committing the crime, after being found guilty, and in handing down the decision. To avoid causing the child ongoing pain or resentment, the judge must understand the background or circumstances that led the child to commit the crime, the impact or consequences of the decision, and the child's sense of security. Before rendering a decision, the court must consider the child's background, the charges, the evidence presented in court, the prosecution's demands, and the defendant's defense.

If the court is satisfied with the evidence presented by the public prosecutor, the judge will conclude that the accused child has committed a criminal offense and impose a sentence in accordance with Article 71 of Law No. 11 of 2012.

Based on an interview dated May 7, 2025, with a juvenile court judge, it was stated: "Characteristics of juvenile court: a special judge handles cases involving children, hearings are closed, and the courtroom is designed to be as comfortable as possible for children, Judges, Prosecutors, Legal Advisors, BAPAS, Social Workers, and Parents/Guardians do not wear uniforms during the hearing.

Considering the statement from the juvenile court judge above and comparing it to criminal court proceedings where the perpetrator is an adult, it can be said that the two are different, because the characteristics of juvenile court proceedings as mentioned above do not apply to adult court proceedings as stipulated in the Criminal Procedure Code No. 8 of 1981.

In addition to the above statement by the juvenile court judge, the judge also stated: "The application of legal protection for children in criminal proceedings at the Medan Class IA Special District Court is carried out in accordance with Law No. 11 of 2012 concerning the juvenile criminal justice system, which is implemented in the following ways: Hearings are conducted in closed sessions to protect the privacy and future of the child, the judge presiding is a specialized judge who understands child psychology, the child is accompanied by a BAPAS (Child Protection Agency), a legal advisor, and their parents/guardians, Diversion (the transfer of case resolution outside the court, which is sought from the initial stage), the judicial process emphasizes a restorative justice approach rather than merely punishment, and children are not immediately detained but may be placed in a special child rehabilitation institution under supervision.

Considering the provisions of Law No. 11 of 2012 on the Child Justice System, it can be concluded that the application of legal protection for children by the Medan District Court Class IA Special does not conflict with or is consistent with the law.

## **CONCLUSIONS AND RECOMMENDATIONS**

### **Conclusions**

1. Children under the age of 18 who are tried in the Medan District Court are children aged 12–18 years.
2. The Medan District Court Class IA Special Criminal Court for Children still follows Law No. 11 of 2012, particularly in providing legal protection to children who commit criminal acts.
3. The Medan District Court Class IA Special uses legal protection for children in the judicial process in accordance with Law No. 11 of 2012 on Juvenile Criminal Justice.

### **Reccomendations**

1. The court and/or panel of judges should carefully consider the existence and condition of the child before deciding on criminal acts, both internal and external.
2. All Indonesian juvenile criminal judges who adjudicate cases involving child offenders should do so in accordance with the intent and purpose of Law No. 11 of 2012.

3. For judges and/or panels of judges adjudicating criminal cases involving children to truly free the child from the bonds of service and society.

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