

Research Article

Legal Reform Regarding the Authority of Public Prosecutors in Implementing Diversion Programs for Children in Conflict with the Law

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Abstract: The Indonesian Law No. 11 of 2012 concerning the Juvenile Criminal Justice System (SPPA Law) established Diversion and Restorative Justice as core pillars for handling Children in Conflict with the Law (CICL). The Public Prosecutor (JPU) plays a mandatory role in attempting Diversion, as stated in Article 7(1) of the SPPA Law. However, the implementation of Diversion is hindered by judicial limitations, such as restrictions on crimes with a prison sentence of less than seven years and the lack of specific government regulations (PP). These barriers often deny children the opportunity for Diversion, exposing them to the formal justice process and stigmatization. This study analyzes the challenges within the JPU's authority regarding Diversion and proposes legal reforms to strengthen their role. Using normative legal research and a conceptual approach, the study examines primary and secondary legal materials and suggests the implementation of a Digital Decision Support System (DSS) to guide prosecutorial discretion. The findings reveal that restrictive penal criteria and the absence of a review mechanism for rejected Diversion cases undermine Restorative Justice efforts. The paper argues that legal reforms are necessary to revise penal limitations, develop a detailed regulatory framework, and implement an integrated information system to support rehabilitation programs, ensuring the best interests of children and reducing reoffending.

Keywords: Diversion; Legal Reform; Public Prosecutor; Restorative Justice; SPPA Law.

1. Introduction

Indonesia has undergone significant reform in its juvenile justice system through the enactment of Law No. 11 of 2012 concerning the Juvenile Criminal Justice System (SPPA Law), which is oriented towards the principles of Restorative Justice and the mechanism of Diversion. Diversion, defined as the transfer of a child's case settlement from the formal criminal justice process to a process outside the court, aims to avoid the negative impacts, stigma, and detention/punishment of children (Setiadi, Rustad, Andono, & Shidik, 2023). The obligation to seek Diversion is mandated at every stage of the process, including at the prosecution level under the authority of the Public Prosecutor (JPU), as stipulated in Article 7 paragraph (1) of the SPPA Law (Sitanggang & Cahyaningtyas, 2020).

The object of this research is the discretionary authority of the Public Prosecutor in implementing Diversion programs for Children in Conflict with the Law (CICL) and the necessity of related regulatory reform. Past efforts to resolve child cases, referring to Law No. 3 of 1997 concerning the Juvenile Court, heavily emphasized normative juridical processes and a retributive (punitive) approach (Bachmid, 2025). While attempting to accommodate the specific needs of children, the previous system tended to place children in formal judicial processes that often resulted in trauma and lasting stigma.

The SPPA Law introduced Diversion (as the core method) to address the weaknesses of the old law. The strength of Diversion lies in its focus on out-of-court settlement, restoration of the victim-offender relationship, and prevention of reoffending (Situmeang & Pudjiastuti, 2022). However, the current implementation of Diversion suffers from the weakness of Article 7 paragraph (2) of the SPPA Law, which limits Diversion only to offenses

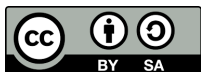
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carrying a penal threat of less than seven years and to non-recidivists. Several studies have highlighted that this limitation contradicts the spirit of Restorative Justice, causing children to lose their right to Diversion even when cases could be settled peacefully (Lin & Adhari, 2021). Furthermore, there is a procedural and support weakness, where the JPU's Diversion decision is often manual and lacks integration with the child's rehabilitation data or a standardized assessment tool, a critical issue relevant to the focus of this journal on Artificial Intelligence and Technologies (FAITH).

The main problem identified is the dualism of authority (the mandatory duty to attempt Diversion vs. the discretionary authority to prosecute) held by the JPU, exacerbated by the restrictive Diversion criteria and inconsistent field implementation. The core question is: How can legal reform optimize the JPU's authority in Diversion to be effective and fully align with the principle of the best interest of the child?

The proposed approach is to formulate both substantive legal reform (revision of Article 7 of the SPPA Law) and procedural reform (strengthening JPU mechanisms and supporting infrastructure) based on a holistic approach to Restorative Justice. The contributions of this article are: (1) Providing a juridical-philosophical analysis regarding the urgency of removing the seven-year penal limitation in Diversion (Panu, Moonti, & Ahmad, 2025). (2) Formulating a reform model for the JPU's authority that is more oriented towards rehabilitation. (3) Offering technical recommendations on the need for a digital Decision Support System (DSS) for the JPU to determine Diversion eligibility in a measurable way (Lee & Cho, 2022).

2. Preliminaries

The legal framework for handling Children in Conflict with the Law (CICL) in Indonesia is founded on the principle of Restorative Justice. This approach focuses on repairing the harm caused by crime and involving all parties the victim, the offender (child), and the community in the process of resolution (Karang, 2022). Diversion is the institutional mechanism through which Indonesia implements this restorative approach for children, representing a philosophical shift away from traditional retributive paradigms (Satria, 2019).

The Public Prosecutor (JPU) holds the foundational authority in this system, acting as the *dominus litis* who controls the case process. Article 7(1) of the SPPA Law makes the JPU's duty to attempt Diversion mandatory (Subarkah, 2023). However, the implementation is often perceived as weak or merely symbolic due to the restrictive clauses, primarily Article 7(2), and the fact that the JPU still retains the discretion to proceed to prosecution (P-21) if Diversion fails or is deemed ineligible.

The primary gap highlighted in contemporary literature is the contradiction between the spirit of the SPPA Law and the seven-year penal threat ceiling. Studies by Larasati and Suwondo (2025) and others note that this restriction denies Diversion to children who commit serious crimes but who still demonstrate a high potential for rehabilitation and reconciliation with the victim. This research differentiates itself by moving beyond identifying this legal gap to proposing a structured, technical solution a Digital Decision Support System (DSS) for guiding JPU discretion, thereby addressing the lack of a standardized and accountable process that is common in current practices.

3. Materials and Method

This research employs a normative legal research methodology. The primary approaches used are the Statutory Approach (analyzing Law No. 11 of 2012, Perma No. 4 of 2014, and other related regulations) and the Conceptual Approach (delving into the principles of Restorative Justice and the best interest of the child). The collected legal materials are analyzed qualitatively using systematic interpretation and synthesis to develop a robust reform proposition.

Theorem 1. The Primacy of The Best Interest of the Child in JPU's Authority. The Public Prosecutor's (JPU) decision regarding Diversion must consistently prioritize the best interest of the child, even when faced with a conflict between the *lex specialis* (SPPA Law) and international legal principles (Convention on the Rights of the Child).

Proof of Theorem 1. The principle of *best interest* serves as the highest guiding principle and should form the basis for interpreting Article 7 of the SPPA Law, especially concerning the penal threat limitation (United Nations, 1989). This necessitates that the JPU utilizes discretion to interpret regulations broadly in the child's interest, which aligns with the global shift towards non-custodial measures.

4. Results and Discussion

4.1. Juridical Analysis of the Penal Threat Limitation in JPU Diversion

The primary finding highlights a significant contradiction within the Juvenile Criminal Justice System (SPPA Law): the mandatory duty to attempt Diversion is undermined by the rigid criteria set forth in Article 7 paragraph (2). Specifically, the provision limiting Diversion to crimes with a penal threat of less than seven years creates an arbitrary barrier that is inconsistent with the law's foundational philosophy of Restorative Justice.

This restriction substantially curtails the Public Prosecutor's (JPU) ability to exercise discretion and prioritize the child's best interest. Cases involving serious crimes (e.g., certain types of aggravated theft or minor violence) which carry a maximum sentence of seven years or more are automatically channeled into the formal system, regardless of mitigating factors such as the child's age, remorse, or the victim's willingness to reconcile (Karang, 2022). This outcome forces many Children in Conflict with the Law (CICL) into the traumatic judicial process, leading to unnecessary detention, formal sentencing, and lasting social stigma. The central argument for reform, supported by this analysis, is that the focus of the Diversion eligibility assessment must be fundamentally shifted from the nature of the crime (a retributive metric) to the profile and potential for rehabilitation of the child (a restorative metric). Reform must, therefore, abolish this arbitrary penal ceiling. Instead, the law should mandate that the JPU's assessment relies primarily on the severity of the act, the victim's agreement, and the child's non-judicial history, thereby aligning the SPPA Law with international conventions that emphasize non-custodial measures as the preferred option.

4.2. Enhancing JPU Discretion with a Digital Decision Support System (DSS)

Removing the seven-year penal ceiling requires a mechanism to prevent the JPU's increased discretion from becoming inconsistent, subjective, or arbitrary. Therefore, a critical technical contribution aligning with the journal's focus on Artificial Intelligence and Technologies is the mandatory standardization of the JPU's decision-making process through the implementation of a Digital Decision Support System (DSS).

The DSS serves as a vital safeguard and standardization tool, transforming prosecutorial discretion from an intuitive process into a scientific, measurable, and transparent one. The system's architecture should integrate three core functional components: an Automated Risk Assessment (RA) Module, a Restorative Measure Database (RMD), and a Transparency and Audit Trail. The RA Module would ingest and process data from the Correctional Center (BAPAS) reports, including the child's social history and family background, using predefined algorithms to generate a Reoffending Risk Score (e.g., Low, Moderate, High). The RMD would offer a standardized catalog of potential Diversion agreements, providing the JPU with legally acceptable, tailored, and evidence-based alternatives to prosecution, such as specific community service programs or pre-calculated restitution models. Crucially, the DSS digitizes the assessment process, automatically creating a complete audit trail for every Diversion decision. This increased transparency is vital, potentially serving as the basis for a future legal mechanism to allow the child or guardian to appeal or seek judicial review of a JPU's decision to reject Diversion, addressing a major procedural weakness currently present in the system.

5. Conclusion

The mandatory authority of the Public Prosecutor (JPU) to implement Diversion is the cornerstone of Indonesia's Juvenile Criminal Justice System (SPPA Law). However, current practices are significantly hindered by systemic limitations, specifically the restrictive seven-year penal threat ceiling (Article 7(2) SPPA Law) and a clear absence of detailed procedural implementation guidelines. This combination risks fundamentally undermining the restorative goals of the SPPA Law, unnecessarily exposing children to formal judicial processes and the attendant negative stigma.

The synthesis of findings dictates that the solution must be two-fold: it requires substantive legal reform to eliminate the arbitrary penal ceiling, thereby granting the JPU the necessary flexibility to uphold the *best interest of the child*. Concurrently, procedural reform is essential, mandating the adoption of a Digital Decision Support System (DSS). This DSS will ensure that the increased prosecutorial discretion is applied with standardization, accountability, and objectivity, utilizing data-driven assessments of a child's rehabilitation potential.

This integrated reform package carries major implications for the juvenile justice system, offering a clear path toward reducing child detention rates, removing social stigma, and ensuring the JPU focuses on constructive rehabilitative outcomes. The study's primary

contribution is the provision of a technical and legal framework designed to strengthen the JPU's role in line with global restorative justice principles.

The limitation of this research is its purely normative nature. Therefore, a key suggestion for further investigation is to conduct an empirical feasibility study on the practical implementation and long-term impact of the proposed Digital Decision Support System for Public Prosecutors across Indonesia.

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