

Konsekuensi yuridis penanganan perkara terhadap anak nakal yang tidak didasarkan pada laporan pembimbing kemasyarakatan : studi kasus di Pengadilan Negeri Bengkulu = The judicial consequences of the handling the case of the juvenile delinquent tahat not bases on the probation officer's report : studies case at District Court of Bengkulu

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Abstrak

ABSTRAK

Tesis ini membahas konsekuensi yuridis penanganan perkara terhadap anak nakal yang tidak didasarkan pada laporan pembimbing kemasyarakatan (studi kasus di Pengadilan Negeri Bengkulu), kendala pelaksanaan Pembimbing Kemasyarakatan dalam proses peradilan pidana anak, solusi yuridis penyelesaian peradilan anak yang tidak menggunakan Pembimbing Kemasyarakatan di Pengadilan Negeri Bengkulu. Penelitian menggunakan metode penelitian normatif dengan pendekatan sosio legal yang bersifat deskriptif analitis. Hasil penelitian menyimpulkan bahwa sering terjadi tidak maksimalnya kerja pembimbing kemasyarakatan, Hakim sering tidak mempertimbangkan laporan hasil penelitian kemasyarakatan dalam memutuskan perkara, selain itu beberapa hakim melakukan persidangan tanpa didampingi oleh Pembimbing Kemasyarakatan, walaupun begitu hakim tetap memutuskan perkara anak tersebut walaupun tanpa didasarkan penelitian kemasyarakatan. Hakim dalam memeriksa perkara anak wajib mempertimbangkan laporan penelitian kemasyarakatan dalam putusannya, yang apabila tidak berdasarkan laporan penelitian kemasyarakatan akan mengakibatkan putusan batal demi hukum. Hal ini disebabkan karena adanya kendala-kendala di dalam pelaksanaan penelitian kemasyarakatan dan kendala pelaksanaan pembimbing kemasyarakatan dalam proses peradilan pidana. Akan tetapi untuk suatu perkara anak yang tidak berdasarkan laporan hasil penelitian kemasyarakatan dan sudah berupa putusan maka yang bisa dilakukan adalah mengkaji kembali putusan tersebut, karena berdasarkan Undang-Undang maka putusan tersebut batal demi hukum sehingga perlu adanya penegasan dalam Undang-Undang tentang penelitian kemasyarakatan dan Pembimbing Kemasyarakatan ini, contohnya mengenai kedudukan Pembimbing Kemasyarakatan di dalam sistem peradilan pidana anak, fungsi penelitian kemasyarakatan dan Pembimbing Kemasyarakatan, penegasan terhadap hak-hak anak sehingga hak mereka untuk dilakukan penelitian kemasyarakatan bisa terpenuhi. Penelitian menyarankan peningkatan koordinasi antara penegak hukum dengan pembimbing kemasyarakatan sehingga lebih melindungi kepentingan anak nakal tersebut.

Abstract This thesis discussed about the judicial consequences of the handling the case of the

juvenile delinquent that not based on the probation officer's report (Studies case at district court of Bengkulu), the problems of the implementation of the social case study in process of the juvenile justice process, the judicial solution of the juvenile justice process that not used advisor of society in district court of Bengkulu. This research used normative method with social legal and case study approach as a descriptive analysis. As the conclusion of this research, the problems caused of the probation officer is not maximum while doing the researched and also they have a problem in doing the research, the judge often did not consider the social case study in deciding the case. Besides that, some judge doing the court without the probation officer. Even though, the judge is still decide the case without based on social case study. Judges in examining cases have to consider the social case study report in their decision, which if the decision is not based on social case study report so the decision is null and void. It all caused of the problem in implementation the research community and in the process of the criminal justice. However, for a case that's not based on social case study and decision was done, we can do review the decision, because based on the legislation, the decision is must null and void. So, we need the affirmation in the legislation about the social case study and probation officer. For examples, the affirmation of this position of probation officer in the juvenile justice process, the affirmation of function from social case study and probation officer, the affirmation of the rights of children, so their right to have a social case study can be fulfilled. This research suggests to increased coordination between law enforcement with probation officer to protect the importance of the Juvenile Delinquent.