



DIVERSION LEGAL RULES AS A SETTLEMENT OF CRIMINAL CASES AGAINST CHILDREN WHO COMMIT MURDER

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Article Info	Abstract
<p>Article History Received : 2024-08-26 Revised: 2024-08-29 Published: 2024-09-05</p> <p>Keywords: <i>Rule of Law, Diversion, Mugging</i></p>	<p>Mugging is basically a criminal act of taking someone else's property against the law followed by violence or threats of violence, even in other conditions it can also be followed by other crimes such as murder and rape. This crime is currently often committed by minors, environmental factors greatly influence the occurrence of mugging, starting from motorcycle gang groups whose members are partly minors. So that violent crimes by taking other people's property on the street are often committed by children which results in the child being in conflict with the law. Diversion is a way out for resolving children who are in conflict with the law. The purpose of this study is to determine the meaning of diversion and the rules of diversion law as well. This study is included in descriptive research with a type of normative juridical research, which uses data sources from secondary data, then the analysis method is qualitative analysis. From this study, it can be concluded that diversion is an effort to divert the settlement of juvenile criminal cases from the criminal justice process to a process outside the courts. Regulations on diversion are regulated in various laws and regulations, namely, Law on the Juvenile Criminal Justice System Number 11 of 2012 Article 6 to Article 15, which explains that diversion must be attempted at every level of examination (investigation, prosecution, and examination in court), Government Regulation Number 65 of 2015 concerning Guidelines for the Implementation of Diversion and Handling of Children Under 12 (Twelve) Years of Age, this regulation regulates the procedures and implementation of diversion, as well as special handling for children under 12 years of age who commit crimes, and Supreme Court Regulation Number 4 of 2014 concerning Guidelines for the Implementation of Diversion in the Juvenile Criminal Justice System, this Regulation provides technical guidelines for the implementation of diversion by law enforcement officers, including judges, in handling juvenile cases.</p>

I. INTRODUCTION

Crimes or criminal acts can basically happen to anyone and can also be committed by anyone, be it men, women or children. Not only by adults, crimes can also be committed by children. Crimes committed by children have not become a problem that is too serious to be considered, either by the government, criminologists, law enforcers, social practitioners or the general public. The specifications of child crimes are social and legal problems that have existed and grown along with the development of religious, social, and legal civilization. In Indonesia, the problem of child crimes has not been highlighted much by the justice system and law enforcement in society (Maulana Hasan Wadong 2000).

Children are a group that is very vulnerable to sexual violence because children are always weak or helpless and very dependent on the adults around them. This makes children helpless when they threaten not to tell what happened. Sexual

violence against children is a moral and legal violation as well as physical and psychological harm (Fitria Ramadhani et al, 2022).

Children are an inseparable part of human survival and the sustainability of a nation and state. In order to be able to be responsible for the sustainability of the nation and state, every child needs to get the widest possible opportunity to grow and develop optimally both physically, mentally and socially. For that, efforts need to be made to realize legal protection for children by providing guarantees for the fulfillment of their rights without discriminatory treatment.

Seeing the reality, the resolution of cases committed by children is still the same as adults, namely through the judicial process. The results will label the child as a convict who is worried that this situation will have a negative impact that can affect the child's mental and soul. And the purpose of punishment to humanize humans will no longer be achieved because of the inappropriate

procedures and methods of use.

The Republic of Indonesia has ratified the convention on the rights of the child through Presidential Decree No. 36 of 1990. This ratification is an effort by the state to provide protection for children in Indonesia. In national law, special protection for children in conflict with the law is also regulated in Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection. However, in its implementation, there are still many problems that arise, especially in terms of children in conflict with the law.

Handling children in conflict with the law must always pay attention to the conditions of children that are different from adults. The basic nature of children as individuals who are still unstable, the future of children as national assets, and the position of children in society that still needs protection can be used as a basis for finding an alternative solution on how to avoid children from a formal criminal justice system, placing children in prison, and stigmatization of the position of children as prisoners.

One solution is to implement diversion. Diversion is an action or treatment to divert a case from a formal process to an informal process or to place a child criminal out of the juvenile justice system. or to place a child criminal out of the criminal justice system (Marlina 2010).

This means that not all problems involving juvenile delinquents must be resolved through formal justice channels, and provide an alternative for resolution with a justice approach in the best interests of the child and by considering justice for the victim.

Diversion for juvenile crimes is an approach in the criminal justice system specifically designed to address criminal cases involving individuals under the age of 18. The concept of diversion aims to avoid harsh criminal processing of children and adolescents, by focusing on rehabilitation, education, and prevention rather than harsh punishment.

Diversion is an effort to divert or sideline the handling of juvenile delinquency from the conventional juvenile justice process, towards handling children that is more of a community service, and diversion is carried out to prevent child perpetrators from the negative impacts of juvenile justice practices (Wahyudi 2011).

The diversion approach in the justice system stems from the understanding that children and adolescents tend to be more susceptible to environmental influences and less able to make

informed decisions. In the past, children involved in criminal acts were often processed in the adult criminal justice system and subject to the same penalties as adults. This understanding has changed with the development of knowledge about child development, adolescent psychology, and the long-term consequences of criminal processing for children.

The main goal of diversion is to provide children and young people with the opportunity to improve their behavior and avoid falling into more serious criminal paths. This approach attempts to address the root causes underlying their delinquent behavior, such as family problems, poor education, mental illness, or social pressures. By identifying these factors and providing appropriate services, diversion aims to prevent future reoffending.

The diversion process involves several stages, including identifying cases suitable for diversion, assessing the child's risk and needs, and developing an appropriate intervention plan. Children who qualify for diversion may be placed under the supervision of a social worker, psychologist, or specialized rehabilitation institution, and they may receive various types of interventions such as counseling, education, skills training, or community supervision programs.

The main principle of diversion is to maintain a balance between justice and understanding of child development. This means that children who commit crimes are still responsible for their actions, but the justice system must prioritize a more caring and educational approach rather than harsh punishment. This principle is based on the belief that children have the potential to repent and improve their behavior if given the right opportunity and support.

Diversion is done with the reason to provide an opportunity for lawbreakers to become good people again through non-formal channels by involving community resources, diversion seeks to provide justice to cases of children who have committed crimes to law enforcement officers as law enforcement. With this diversion approach, the criminal justice system seeks to provide children and adolescents with the opportunity to improve themselves and become productive members of society, while maintaining a balance between justice and attention to their development.

In Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection, clear and comprehensive regulations are provided

regarding child protection which is essentially aimed at providing guarantees and protecting their rights so that they can live, grow, develop and participate optimally, as well as obtain protection from violence and discrimination.

Law Number 11 of 2012 concerning the Juvenile Criminal Justice System emphasizes that the child public prosecutor is required to seek diversion if the case meets the requirements for diversion. Regardless of whether the articles governing diversion in Law Number 11 of 2012 concerning the Juvenile Criminal Justice System are in accordance with their current implementation, the Medan Police consider it important to implement diversion in resolving criminal cases involving children.

II. RESEARCH METHODS

The type of research used is normative legal research. Normative legal research is legal research that places law as a building of normative systems. The normative system in question is about the principles, norms, rules of laws and regulations, court decisions, agreements and doctrines. (Marzuki 2016). The approach used in normative research allows a researcher to utilize the findings of empirical legal science and other sciences for the benefit of legal analysis and explanation without changing the character of legal science as a normative science. (Ibrahim 2007).

The legal materials used in this study are secondary data which are generally known as legal materials consisting of primary legal materials, secondary legal materials and tertiary legal materials. Secondary data used in this study include, the 1945 Constitution of the Republic of Indonesia, the Criminal Code, Law Number 11 of 2012 concerning Juvenile Justice, Law Number 23 of 2003 concerning Child Protection, Government Regulation Number 65 of 2015 concerning Guidelines for the Implementation of Diversion and Handling of Children Under 12 (Twelve) Years of Age, and Supreme Court Regulation (PERMA) Number 4 of 2014 concerning Guidelines for the Implementation of Diversion in the Juvenile Criminal Justice System.

The techniques and tools of data collection in this study are through library research and document research in the Medan District Court, North Sumatra. In this study, qualitative data analysis will be carried out. Qualitative data analysis is carried out using descriptive analysis techniques, evaluative techniques, and argumentative techniques.

III. RESULTS AND DISCUSSION

A. Understanding Diversion

Diversion is a way of transferring the settlement of a child's case from the criminal justice process to a process outside the criminal justice process. The types of diversion generally consist of 3 types, namely:

- 1) Warning, namely diversion in the form of a warning, will be given by the Police for minor violations as part of a warning that the perpetrator will apologize to the victim.
- 2) Informal Diversion, which is applied to minor violations where it is deemed inappropriate to only give a warning to the perpetrator and the perpetrator needs a comprehensive intervention plan. In this informal version of the plan, the child will be responsible, recognize the needs of the victim and the child, and if possible the parents are asked to take responsibility for the incident.
- 3) Formal diversion, which is carried out if informal diversion cannot be carried out but does not require court intervention. The formal diversion process where the victim and perpetrator meet face to face, internationally this is called Restorative Justice (Wahyudi 2011).

In Article 6 of Law No. 11 of 2012 concerning the Juvenile Justice System, the objectives of diversion are stated, namely:

- a. Achieving peace between victims and children
- b. Resolving children's cases outside the judicial process
- c. Protecting Children from Deprivation of Liberty
- d. encourage the community to participate
- e. instill a sense of responsibility in children

The aim of diversion is the implementation of restorative justice which seeks to restore recovery to a problem, not retaliation as has been known in criminal law.

Diversion itself must be attempted at every level of investigation, prosecution and examination of child cases in the district court. The word "must be attempted" means that child law enforcers from investigators, prosecutors and also judges are required to make efforts so that the diversion process can be carried out (M. Nasir Djamali, 2013). The obligation to attempt diversion from the start

of investigation, prosecution and examination of child cases in the district court, with the following requirements, is threatened with imprisonment of less than 7 (seven) years, which is not a repetition of the crime (Syaiful Asmi, et al 2022).

This provision explains that a child who commits a crime where the threat is more than 7 (seven) years and has committed a repeat crime is not required to be diverted. This is important considering that the threat of a sentence of more than 7 years is classified as a serious crime, and is a repetition, meaning that the child has committed a crime, whether it is of the same type or not, including a crime that is resolved through diversion.

Referring to the Supreme Court Regulation (PERMA) No. 4 of 2014 concerning Guidelines for the Implementation of Diversion in the Juvenile Criminal Justice System, the Judge is obliged to apply diversion if the public prosecutor's indictment threatens with imprisonment of 7 (seven) years or more where the form of the indictment is subsidiary, alternative, cumulative or combination (combined).

The diversion process is carried out through deliberation involving the child and his/her parents/guardians, the victim and/or his/her parents/guardians, Community Counselors, and Professional Social Workers based on a restorative justice approach. The deliberations carried out involve Social Welfare personnel, and/or the community. The diversion process itself must pay attention to: the interests of the victim, the welfare and responsibility of the child, avoidance of negative stigma, avoidance of retaliation, harmony. Community, propriety, morality, and public order.

The results of the diversion must obtain the consent of the victim and/or the victim's child family and the willingness of the child and his/her family. This implies that there must be active explanation and apology from the victim and his/her family in the diversion process, so that the process of restoring the situation can be achieved in accordance with restorative justice. The results of the diversion can be excluded for: criminal acts in the form of violations, minor crimes, crimes without victims, and if the value of the losses incurred is not more than the local provincial minimum wage.

The forms of results from the diversion carried out include: "peace with or without compensation, return to parents/guardians, participation in education or training at educational institutions or LPKS for a maximum of three (three) months, community service". The results of the diversion are stated in the form of a diversion agreement. If the diversion process is unsuccessful, then the Juvenile Criminal Justice process is continued for each level.

If in this case the investigator, public prosecutor and judge do not carry out diversion, they will receive sanctions as stated in Article 96 of Law No. 11 of 2012 concerning the Juvenile Justice System: "Investigators, Public Prosecutors and Judges who intentionally do not carry out the obligations as referred to in Article 7 paragraph (1) shall be punished with imprisonment for a maximum of 2 (two) years or a maximum fine of IDR 200,000,000.00 (two hundred million rupiah)."

B. Diversion Legal Rules as an Alternative for Resolving Child Criminal Cases

Law Number 3 of 1997 concerning Juvenile Courts is recognized as no longer in accordance with the legal needs in society and has not comprehensively provided special protection to children in conflict with the law, which is caused by a paradigm shift in handling children who commit crimes. Thus, there needs to be a paradigm shift in handling children in conflict with the law, among others based on the role and duties of society, government, and other state institutions that are obliged and responsible for improving child welfare and providing special protection to children in conflict with the law.

As a change and renewal of the Juvenile Justice Law, the Indonesian Government has issued Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (hereinafter abbreviated as SPP Anak). One of the substances regulated in the Law concerning the Juvenile Criminal Justice System is the regulation on diversion, namely:

1. Diversion: Mandatory at every level (Article 7):

At the level of investigation, prosecution, and examination of child cases in the district court, diversion must be attempted. Diversion is implemented in

cases where the crime committed is threatened with imprisonment of less than 7 years, is not a repetition of the crime, and is carried out on children aged 12 years and above.

2. Diversion Process (Article 8):

The diversion process is carried out through deliberation involving the Child and his/her parents/guardians, the victim and/or his/her guardian, Community Guidance Officer, and professional Social Workers based on the Restorative Justice approach. If necessary, the deliberation may involve Social Welfare Workers, and/or the community. The Diversion Process must pay attention to:

- Victim's interests
- Child Welfare and Child Responsibility
- Avoiding negative stigma
- Avoidance of retaliation
- Social harmony, and
- Propriety, morality and public order.

Then the provisions of Article 9 paragraph 1, mention the things that must be considered by Investigators, Public Prosecutors and Judges in carrying out Diversion, namely:

- Category of criminal acts
- Child Age
- The results of community research from Bapas, and
- Support from family and community environment.

This provision is an indicator that the lower the criminal threat, the higher the priority for implementing diversion. Diversion is not intended to be implemented against perpetrators of serious crimes, such as murder, rape, drug dealers, and terrorism, which are threatened with a sentence of more than 7 (seven) years. While the age of the child in this provision is explained, that it is intended to determine the priority of granting diversion and the younger the age of the child, the higher the priority of diversion. So the measure for diversion to be carried out is not solely on the age limit of the child.

3. Diversion without the victim's consent (Article 9 paragraph 2):

Diversion agreements must obtain the consent of the victim and/or the victim's child family as well as the willingness of the child and his/her family, except for:

- Criminal acts in the form of violations,
- Minor crimes,
- Victimless crimes, or
- The value of the victim's loss is no more than the local provincial minimum wage.

The provisions regarding "consent of the victim's family", here the explanation is intended in the case where the victim is a minor. While what is meant by a minor crime is explained as a criminal act that is threatened with imprisonment or imprisonment for a maximum of 3 (three) months.

4. Results of the Diversion agreement (Article 11):

The results of the Diversion agreement can be in the form of:

- Peace with or without compensation,
- Return to parents/guardians,
- Participation in education or training at educational institutions or
- LPKS (Social Welfare Institution) for a maximum of 3 (three) months, or
- Community service.

5. Implications of Diversion arrangements

The regulation on diversion in the Child SPP will have implications for the regulation of material criminal law on children. Material criminal law is the rules that determine and formulate what actions can be punished, the rules that contain the conditions for imposing a penalty and provisions regarding the penalty.

The provisions of material criminal law are generally regulated in the Criminal Code. While more specific rules regarding material criminal law regarding children are mostly regulated in laws outside the Criminal Code. More specific regulations regulate the age limit for children to

be held criminally responsible and regulate the types of criminal acts and actions that can be imposed on children in conflict with the law.

Furthermore, the implications for formal criminal law (procedural law) concern the process of proceedings in juvenile criminal trials. So far, the juvenile criminal trial process in proceedings has been guided by Law Number 3 of 1997 concerning Juvenile Courts. With the renewal of regulations on diversion which is a judicial process outside formal courts, the formalization policy relating to the authority of law enforcers in the investigation process, prosecution process, and examination process in court in conducting diversion needs to be included in the renewal of formal criminal law in general.

Then the implication of the diversion regulation also affects the renewal of the legal system for implementing criminal law for children. Here, it is necessary to renew the development programs in relation to the diversion program, so that every criminal decision imposed by the judge on a child in conflict with the law does not have to be developed and serve a sentence in a correctional institution.

Settlement of juvenile criminal cases through diversion can also be described as a system when the facilitator regulates the process of resolving the conflicting parties to achieve a satisfactory resolution as restorative justice. The tradition and mechanism of consensus are real manifestations in strengthening the law that has lived in society since long ago (Chairuni Nasution, 2023).

To guarantee and maintain the continuity of individual balance in relationships between members of society, legal rules are needed that are upheld by all members of society, where the legal rules are obeyed and implemented with the aim of protecting the interests of society. The application of legal sanctions to members of society, including children who break the law, is expected to have a positive effect on the development of the child's personality, as long as the punishment is educational and not merely a form of sanction or criminal punishment for

children who commit crimes. As stated by Carl von Savigny, it can be seen through the creation of laws and the main functions of law, namely:

1. Law Making

Law is not a concept in society because law grows naturally in social interactions where law always changes along with social change.

2. Main Functions of Law

The concept of the soul of society about this law cannot clearly show how its contents and scope are. So it is very difficult to see its function and development as the main source of law according to this theory (Yahya Harahap, 2006).

Efforts to protect children need to be implemented as early as possible, namely from the fetus in the womb until the child is 18 years old. Starting from the concept of complete, thorough and comprehensive child protection, the Child Protection Law places an obligation to provide protection to children based on the principles of non-discrimination, the best interests of the child, the right to life, survival and development as well as respect for opinions. child.

Law No. 23 of 2003 concerning Child Protection in Article 59 states that the government and other state institutions are obliged and responsible for providing special protection to children in emergency situations, children who commit crimes, children from minority and isolated groups, children who are exploited economically and/or sexually, children who are traded, children who are victims of abuse of narcotics, alcohol, psychotropics and other addictive substances, children who are victims of kidnapping, sale and trade, children who are victims of physical and/or mental violence, children with disabilities and children who are victims of mistreatment and neglect.

The purpose of diversion is to find a way to deal with violations of the law outside the court or formal justice system. There are similarities between the purposes of discretion and diversion. The implementation of diversion is motivated by the desire to avoid negative effects

on the child's soul and development by their involvement with the criminal justice system. The implementation of diversion by law enforcement officers is based on the authority of law enforcement officers called discretion.

The main principle of implementing the diversion concept is persuasive action or non-penal approach and giving someone the opportunity to correct their mistakes. Officers in implementing diversion show the importance of obedience to the law and regulations. Officers carry out diversion by means of a persuasive approach and avoid arrests that use violence and coercion.

Violent acts during arrest carry a coercive nature as a result of law enforcement. Avoiding arrests with violence and coercion is the goal of implementing diversion. The goal is to enforce the law without committing violent and painful acts by giving someone the opportunity to correct their mistakes without going through criminal punishment by the state which has full authority. One example of the background to the importance of the diversion policy is the high number of children who enter criminal justice and are sentenced to prison and experience violence while undergoing a series of processes in the criminal justice system.

Diversion is carried out on the grounds of providing an opportunity for lawbreakers to become good people again through non-formal channels involving community resources. Diversion seeks to provide justice to cases of children who have committed crimes to law enforcement officers as law enforcement. Both of these justices are presented through a study of the circumstances and situations to obtain appropriate sanctions or actions (appropriate treatment). Three types of diversion program implementation are:

1. Implementation of social control (social control orientation), namely law enforcement officers hand over the perpetrators to the responsibility of supervision or observation of the community, with obedience to the agreement or warning given. The perpetrator accepts responsibility for his actions and the community does not expect a second chance for the perpetrator.
2. Social services by the community towards

the perpetrator (social service orientation), namely carrying out the function of supervising, intervening, improving and providing services to the perpetrator and his/her family. The community can intervene with the perpetrator's family to provide improvements or services.

3. Towards the process of restorative justice or negotiation (balanced or restorative justice orientation), namely protecting the community, giving the perpetrator the opportunity to be directly responsible to the victim and the community and making a joint agreement between the victim, the perpetrator and the community. The implementation of all related parties is brought together to jointly reach an agreement on action against the perpetrator (Marlina, 2010).

The main principle of implementing diversion is persuasive action or non-penal approach and giving a person the opportunity to correct their mistakes. With this approach, it is hoped that there will be no more torture, coercion or violence against children. This is the main objective of implementing diversion. With diversion, the law can be enforced without committing violent and painful acts, by giving a person the opportunity to correct their mistakes without going through criminal punishment by the state which has full authority. The factors that influence deciding on diversion are as follows:

1. The seriousness of the crime.
The most common types of crimes committed by children are theft, drugs, ganging up, and traffic accidents. The crimes committed by children are indeed intended or planned to fulfill their desires.
2. The nature and number of violations previously committed.
The more often a child is caught by the police committing a violation, the less chance there is of getting diversion. Because the evil deeds are made a habit by this child, so it can be concluded that this child is not good to develop in the general community.
3. Does the child admit to the violation?
Children who are willing to admit with a

clear conscience that their actions have violated the law and harmed other parties can be made a priority in providing diversion.

4. The victim's view.

If the perpetrator/suspect child is seen by the victim's family to be a good child, or if he/she committed the crime because he/she was forced to or accidentally, then at the request of the victim's family, a diversion can be submitted.

5. The attitude of the child's family.

Parents/family/guardians do not want their children to go to prison, so they make various efforts to submit a diversion request for their children.

Diversion is an action or treatment to divert or place child criminals out of the criminal justice system (Fatmawati et al, 2016). In addition to the factors that influence the decision to diversion above, some of the author's research results below will explain the considerations for using diversion in handling problems of children in conflict with the law. In practice, law enforcement officers do the following:

1. Against children as perpetrators, practices were found of shaving children's hair without paying attention to propriety and aesthetics, taking money/items belonging to children even though the money/items were not related to the case, ordering children to clean the Police Station or wash cars, giving physical punishment, stripping, mistreating, shouting, placing children in the same room as adult prisoners, and publishing children to the media.
2. For children as victims, Law No. 23 of 2002 concerning Child Protection is not used as the main article that is the basis for upholding the rights of children as victims and still publishes pictures of children, the identities of children and their families.
3. There is still a tendency to resolve cases involving children as perpetrators using the formal legal system and there is still

very little creativity in finding alternative solutions to children's problems outside of formal law/court (Marlina, 2010).

Based on the facts that the author has described above, it is enough to describe the consideration of using the concept of diversion in handling child cases, because a child is at high risk of having his/her human rights violated when he/she has to be involved in the criminal justice system. Therefore, it would be better if diversion is implemented in handling problems of children in conflict with the law.

This detrimental tendency is the result of the effects of criminal penalties, especially imprisonment, which are in the form of stigma (evil label). The task of the public prosecutor in court is to prove his charges by providing supporting evidence in the prosecution of the case. The public prosecutor must be active, corrective and professional in the evidentiary process (Lidya Rahmadani et al, 2023).

The fact is that criminal justice for children who commit crimes through the criminal justice system causes more harm than good for children. This is because the court will stigmatize children for their actions, so it is better to avoid them from leaving the criminal justice system.

IV. CONCLUSIONS AND RECOMMENDATIONS

Based on the results of the study, it can be concluded that diversion is an effort to divert the settlement of child criminal cases from the criminal justice process to a process outside the courts. Regulations on diversion are regulated in various laws and regulations, namely:

1. Law Number 11 of 2012 on the Juvenile Criminal Justice System Article 6 to Article 15, which explains that diversion must be attempted at every level of examination (investigation, prosecution, and court hearing) for children in conflict with the law, with the aim of preventing negative stigma, and so that children can be reintegrated into society. The purpose of diversion according to this law is to achieve peace between victims and children, resolve children's cases outside the judicial process, prevent children from being de-

prived of liberty, and encourage the community to participate in the development of children.

2. Government Regulation Number 65 of 2015 Concerning Guidelines for the Implementation of Diversion and Handling of Children Under 12 (Twelve) Years of Age, this regulation regulates the procedures and implementation of diversion, as well as special handling for children under 12 years of age who commit crimes. Children under the age of 12 who are involved in crimes will not be processed through the criminal justice system, but must go through social guidance or rehabilitation. Supreme Court Regulation Number 4 of 2014 Concerning Guidelines for the Implementation of Diversion in the Juvenile Criminal Justice System, this Regulation provides technical guidelines for the implementation of diversion by law enforcement officers, including judges, in handling cases of children. This includes the procedures for implementing diversion in court, as well as how judges should assess the appropriateness of diversion in the cases they are handling.

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