

# Law Enforcement of Confidentiality Children's Identity in Court Decisions

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**Abstract**— Children as perpetrators of crimes or children in conflict with the law get protection for the confidentiality of their identity from the news in the Print or Electronic Media as stated in Article 19 of Law Number 11 Year 2012 concerning the Criminal Justice System for Children. The child's identity includes, the child's name, the name of the parents, address, face and other things that can reveal the child's identity. In practice, many court decisions that write the identity of child offenders in detail and clearly. Who should be responsible for the child's identity written in full in a derivative court decision that circulates through the website of the Republic of Indonesia's Supreme Court's Decision Directory and how its law enforcement is given in the SPPA Act also regulates criminal sanctions for those who open the secrecy of the child's identity.

**Keywords**— *criminal liability, law enforcement, disclosure of secrecy, children's identity;*

## I. INTRODUCTION

Provisions in Article 19 paragraph (1) of Law No. 11 of 2012 concerning the Criminal Justice System for Children (hereinafter referred to as the SPPA Law), reads, "The identity of the child, child victim, and / or witness child must be kept confidential in reporting in print or electronic media". The child's identity includes, the child's name, the name of the parents, address, face and other things that can reveal the child's identity. the identity of children in conflict with the law must be kept confidential so that it does not leak into the wider community in order to protect the rights of children who are part of human rights that must be guaranteed, protected, and fulfilled by parents, families, communities, governments, and the state.[1]

Some court decisions related to child criminal cases uploaded on the website include court decisions Register Number 2 / Pid.Sus-Anak / 2017 / PN Bkl, court decision No. 11 / Pid.Sus.Anak / 2015 / PN.BJM on behalf of the child defendant MuhaiminAlm. Amin Bin Mahmud court decision with case number 9 / Pid. Sus / 2015 / PN. PTI. The detailed and complete mention of the name of the perpetrator of a child is not in accordance with Article 19 of the SPPA Law and the Government Regulation No. 9 of 2017 concerning Guidelines for Registering Children and Children Victims. In the PP it is said that the data in the case register of children, one of which is the child's identity must be kept confidential. Children case registers must also be separated from adult case registers. Therefore, this is a matter of who should be responsible for loading data related to the widely circulated child's identity and how law

enforcement is. Bearing in mind that the SPPA Law regulates sanctions or criminal provisions if it violates the obligation to keep the identity of a child who is in conflict with the law as referred to in Article 19 paragraph (1) sentenced to a maximum imprisonment of 5 (five) years and a maximum fine of Rp 500,000,000.00 (five hundred million rupiah).[2]

The issue of accountability and law enforcement is a serious problem in several cases related to the identity of children in terms of who should be held criminally responsible and how is law enforcement regarding cases of leaking the identity of children in conflict with this law. Considering that the existence of Article 19 of the SPPA Law is already a valid law, it needs to be enforced.[3] Therefore. law enforcement issues are echoed massively, but it should be followed up with active, real and concrete action.[4]

Directory of Supreme Court Decisions which includes decisions from various judicial institutions in Indonesia, the nature of these decisions has an average permanent legal force (inkracht), which can be accessed by the public through the Supreme Court's decision website. Therefore, the Directory of the Decisions of the Supreme Court of the Republic of Indonesia can be regarded as electronic media. Electronic media is a means of mass media that uses modern electronic devices.

## II. RESEARCH METHOD

This research is normative research with the regulatory approach, the concept approach and the case approach. This research will analyzing law enforcement of confidentiality children's identity in court decisions.

## III. RESULTS AND DISCUSSION

### A. Law Enforcement and Criminal Liability Opening the Confidentiality of Child Identity as a Criminal Actor on the Website of the Court and Directory of the Supreme Court's Decisions of the Republic of Indonesia

Decision Directory is a website-based system that is owned by the Registrar of the Supreme Court of the Republic of Indonesia to publish the decisions of the Supreme Court and all court decisions from 4 (four) judicial environments both at the first level and appeal level throughout Indonesia. Searching for the Supreme Court's decision which is stored in the form of a database on the

application of the Decision Directory can be done by 2 (two) methods, namely hypertext navigation method and searching method.[4]

The legal basis for the emergence of the website of the Decision of the Supreme Court of the Republic of Indonesia is contained in Article 7 of Law Number 14 Year 2008 regarding Openness of Public Information, which states that "Public Bodies must provide, provide and / or publish Public Information under their authority to the Public Information Applicant. , in addition to information that is excluded in accordance with the provisions ". Judicial body decisions are not included in the category of information that is excluded from publication.

The Directory of the Decision of the Supreme Court of the Republic of Indonesia in addition to containing decisions which are the perpetrators of adults also contain criminal decisions which are the perpetrators of children, which according to law must be treated specifically. Special treatment of child offenders by considering the nature and physical characteristics of children in certain cases requires special protection, especially legal protection in the justice system, especially against actions that can harm mental and physical development.6 Forms of protection for children also include situations and certain conditions to get a guarantee of a sense of security against threats that endanger themselves and lives in their growth and development, children who are dealing with the law.

In addition, children who are in conflict with the law have special protection contained in Article 64 letter i of the Law of the Republic of Indonesia Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection (hereinafter referred to as the Child Protection Act), covers the avoidance of publication of his identity. on the website of the Decision of the Supreme Court of the Republic of Indonesia. Related to the blurring of certain information by replacing and shortening information such as the identities of the parties, witnesses and related parties in the case, namely in the case:

- a) Crimes of decency
- b) Crimes related to domestic violence
- c) Criminal acts which according to the law regarding the protection of witnesses and victims, the identity of witnesses and their victims must be protected
- d) Other criminal acts which according to the law of the trial are carried out in private
- e) Marriage and other cases arising from marital disputes
- f) Appointment of children
- g) Testament
- h) Civil, religious civil and state administration which according to the law are conducted in private

Some examples of decisions that mention and do not mention the identity of child offenders. One of them is decision No. 11 / Pid.Sus-Anak / 2015 / PN.Bjm on behalf of the defendant MuhaiminAls. Amin Bin Mahmud. In this decision, the child's identity is explained in full, such as the address and name of the parent of the child who is seen by the word 'Bin'. Furthermore, in the decision Number: 9 / Pid.Sus-Anak / 2015 / PN.Pti. in the name of the defendant CHILDREN. This court's decision is in accordance with the

provisions of Article 19 of the SPPA Law which has obscured the name of the child defendant as a criminal offender as a Naughty Child.

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Avoidance of publication of a child's identity so that his past actions that have committed a criminal act are protected from giving social sanctions and labeling that can cause difficulties for a child's development in the future. This is in line with Article 10 of the Decree of the Chief Justice of the Supreme Court Number: 144 / KMA / SK / VIII / 2007 Year 2007 regarding Information in the Court, for cases of child crime, the court must obscure information that contains the identity of the victim, defendant or convict before entering a copy Court decisions or decisions on the Court or Supreme Court website. Therefore law enforcement against anyone who does not implement the provisions that already exist, the criminal sanctions in Article 97 of the SPPA Act can be applied and can be held accountable for criminal.

Supreme Court Circular Letter Number 1 of 2014 concerning Amendments to the Circular Letter of the Supreme Court of the Republic of Indonesia Number 14 of 2010 concerning Electronic Documents as Completion of Appeals for Cassation and Reconsideration is the legal basis for case administration in the Supreme Court, including the decision of children to be kept confidential. Considering that there is a Government Regulation of the Republic of Indonesia Number 9 of 2017 concerning Guidelines for Registering Children and Children Victims, it is explained that the case registers for Children and Victim Children must be made separately from adult cases. Where the case register of Children and Child Victims contains data such as the identity of Children and Children of Victims that are confidential. The court's website (website) is the electronic media. where electronic media is a media or container which contains information or news in electronic form. So that the site can be accessed by the public freely.

One of the main principles in the justice system in the world is that the court is open or transparent. Therefore, the trial process must be open to the public unless determined to be closed to matters in the realm of family law, child crime, decency. Each court has an information and documentation officer on duty and responsible for providing information to the public as well as requests for information requested by the public against the court. The person responsible for information and documentation is the Chair of the Court. Information and documentation officer is an employee appointed in charge of providing information services to the public. Information and documentation officer has the duty to store, maintain and manage information intactly and properly, and to provide information services to the Applicant quickly, simply, and at a low cost.

Dissemination of information is done by using other means of disseminating information in accordance with technological developments and the ability of the Court's budget. In announcing this information, the court must obscure information that contains the identity of the victim's witness before inserting a copy of the Court's decision or stipulation on the website of the Court regarding certain cases, one of which is another criminal act which according to the trial law is carried out in a closed manner, such as Child Trial. For cases of juvenile crime, the court must obscure information that contains the identity of the victim, defendant or convicted person before entering a copy of the Court's decision or stipulation into the court's website. This is done in order to fulfill the child's right, namely avoidance of the public for their identity. This is in accordance with Law No. 39 of 1999 concerning Human Rights, which states, "every child has the right to protection by parents, families, communities and countries. Children's rights are human rights and for their interests the child's rights are recognized and protected by law even from the womb.

Rules regarding the disclosure of the confidentiality of the identity of children in conflict with the law and regarding criminal provisions. The definition of every person, referring to the Criminal Code is a human being (natuurlijk person). The understanding of people associated with criminal acts in Article 97 of the SPPA Act is the manager or officer of the Supreme Court's Decision Directory website. Considering the decisions entered into the judiciary both first level and level of appeal throughout Indonesia, ended in the management carried out by the

Registrar of the Supreme Court. Each court has a website to provide information and documentation from the court which also includes the court's decision, which manages the website, which is the information and documentation officer appointed by the Chief Justice to carry out the task of providing or managing information from the court.

Therefore, the official website manager of the Court and the Directory of Decisions is the person responsible for the negligence of the confidentiality of the child's identity. Decree of the Chairperson of the Supreme Court of the Republic of Indonesia Number 144 / KMA / SK / VIII / 2007 of 2007 concerning Transparency of Information in the Court, in Article Article 4 paragraph (3) states, "the person responsible for information and documentation at the Supreme Court is the Registrar in terms of information relating to case. Court decisions or information are information that can be accessed by the public. Likewise, decisions in the case of children whose trial is conducted in private, must obscure information about the child's identity.

From the parties, especially children who are dealing with the law to maintain their confidentiality. This is certainly related to Article 19 of the SPPA Law which explains that the identity of children in conflict with the law must be kept confidential in reporting in print and electronic media. Where the website of the Supreme Court Directory and Leakage of the identity of children in conflict with the law is a criminal offense, and the manager of the website of the Court and Directory of the Supreme Court's Decision is the person responsible for leaking the child's identity that is on the Court and Directory site Decision of the Supreme Court There is negligence that has been carried out by the managers because they do not pay attention to the rules in Article 19 paragraph (1) of the SPPA Law and Article 10 of the Decree of the Chairman of the Supreme Court of the Republic of Indonesia Number 144 / KMA / SK / VIII / 2007 of 2007 concerning Information Openness in the Court.

#### IV. CONCLUSIONS AND SUGGESTIONS

1. The identity of the offender's child must be kept confidential, therefore, the writing of the child's identity on the website of the Decision of the Supreme Court of the Republic of Indonesia. it must be obscured, because the child's case decision must be kept confidential in print and electronic media.
2. An information and documentation officer or an employee appointed to be responsible for providing information services to the public is the person responsible for the confidentiality of the child's identity.
3. Criminal sanctions can be applied to officers or employees appointed as data and information managers on the site of Directory of Supreme Court Decisions of the Republic of Indonesia.
4. Law enforcement on the disclosure of the secrecy of the identity of the offender's child must be carried out in order to maintain legal certainty.

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