

**ANALISIS YURIDIS TINDAK PIDANA PERSETUBAHAN OLEH
ANAK TERHADAP ANAK ATAS DASAR SUKA SAMA SUKA
BERDASARKAN PRINSIP KEPENTINGAN TERBAIK BAGI
ANAK (STUDI PUTUSAN NOMOR 8/PID.SUS/2021/PN SGR)**

Oleh

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ABSTRAK

Sejatinya anak merupakan anugerah dari Tuhan yang kelak akan menjadi penerus masa depan bangsa. Namun pemidanaan terhadap anak terus meningkat, yang dimana seharusnya anak berkonflik dengan hukum wajib diberikan perlindungan hukum. Menggunakan metode penelitian hukum normatif dan pendekatan kasus (*Case Approach*) guna mengkaji pertimbangan hukum hakim dalam menjatuhkan sanksi pidana terhadap anak sebagai pelaku tindak pidana persetubuhan, serta menganalisis secara yuridis tindak pidana persetubuhan anak terhadap anak atas dasar suka sama suka berdasarkan prinsip kepentingan terbaik bagi anak berdasarkan putusan no8/Pid.Sus-Anak/2021/PN.Sgr. Berdasarkan hasil penelitian dan analisis menunjukkan bahwasanya penjatuhan pidana terhadap anak dalam putusan no8/Pid.Sus-Anak/2021/PN.Sgr. kurang mencerminkan keadilan, hakim kurang mengedepankan prinsip kepentingan terbaik bagi anak yang disebutkan dalam Pasal 2 Undang Undang Nomor 23 Tahun 2002. Hakim juga mengabaikan perihal fakta seputar kausalitas non-yuridis sehingga terjadinya tindak pidana persetubuhan.

Kata Kunci: Tindak Pidana, Persetubuhan, Anak, Kepentingan terbaik bagi anak

***JURIDICAL ANALYSIS OF THE CRIMINAL ACTION OF CHILD AGAIN
AGAINST CHILDREN ON THE BASIS OF CONSENT BASED ON THE
BEST INTEREST FOR CHILD PRINCIPLES (DECISION STUDY NUMBER
8/PID.SUS/2021/PN SGR)***

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ABSTRACT

Indeed, children are a gift from God who will become the future successor of the nation. However, the punishment of children continues to increase, where children in conflict with the law should be given legal protection. Using normative legal research methods and case approaches to examine judges' legal considerations in imposing criminal sanctions on children as perpetrators of sexual intercourse, as well as analyzing juridically criminal acts of child sexual intercourse against children on the basis of consensual based on the principle of the best interests of the child based on decision number 8/Pid.Sus-Anak/2021/PN.Sgr. Based on the results of research and analysis, it is shown that the punishment of children in the decision number 8/Pid.Sus-Anak/2021/PN.Sgr. does not reflect justice, the judge does not prioritize the principle of the best interests of the child as stated in Article 2 of Law Number 23 of 2002. The judge also ignores the facts regarding non-juridical causality so that the crime of sexual intercourse occurs.

Keywords: Crime, sexual intercourse, children, best interests of children