

ABSTRACT

After the promulgation of the 2023 Criminal Code, which prioritizes restorative justice and seeks to avoid imprisonment, the detention of children needs to be re-examined or reconstructed as to the reasons for detaining children. The aim of this thesis research is to analyze: 1. The effectiveness of child detention in the juvenile criminal justice system after the promulgation of the 2023 Criminal Code (KUHP-2023); 2. Effectiveness of Child Detention at the Appeal Level in the Juvenile Criminal Justice System. This research uses legal justice theory with juridical analysis research methods. The results of the research conclude: 1) Detaining children in the juvenile criminal justice system after the promulgation of the 2023 Criminal Code (KUHP-2023) is less effective, because the 2023 Criminal Code, which promotes restorative justice, seeks to avoid imprisonment through mediation or peace, whereas in the juvenile criminal justice system, restorative justice is sought to avoid children being processed in juvenile criminal justice or carrying out diversion; 2) Detaining children at the appeal level in the juvenile criminal justice system is less effective, because in the appeal process there is no need to examine the defendant, whereas in the juvenile criminal justice system, detention and imprisonment are sought to be avoided. Suggestions are put forward: 1) In order to try to avoid detaining children, there should be conditions that diversion can be carried out, namely, in the event that a child is accused of committing a criminal offense which is punishable by imprisonment for less than 7 (seven) years and is also charged with a criminal offense which is punishable by imprisonment of 7 (seven) years or more in the form of a subsidiary, alternative, cumulative or combined indictment, this should be abolished or in other words, diversion should not be subject to these conditions but rather be made an obligation of law enforcers in cases child; 2) The basis for detaining a child during the appeal process at the High Court should not be based on examination purposes because during the appeal process there is no examination of the defendant at the High Court. If you still want to detain at the appeal or cassation level, the basis for considering the detention should be based on the criminal threat that is threatened by the criminal offense committed by the child, for example over five years or over seven years.

Keywords: Detention, Children, Appeal, Trial, Criminal, Criminal Code-2023.