


The Role Of Advocates In Accompanying Children In Conflict With The Law In The Diversion Process

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Article Info	ABSTRACT
Keywords: Diversion, Advocate, Children in Conflict with the Law	One of the from Lots challenges faced moment This in use diversion in the judicial process child is capacity advocate For understand and apply concepts In the research This, using normative methods with approach one approach, especially Constitution Number 11 of 2012 which regulates System Justice Child Criminal Act. According to results research, advocate hold role important in the process of diversion for troubled children with law Because they ensure that rights child is upheld, proposed non- criminal settlement that emphasizes rehabilitation, as well as give consultation about rights and options available solutions. They push implementation principle justice restorative with involving all party in taking decision For reach peace, while act as a professional independent representative. However, even though role this is very important, advocate face various challenges, including lack of understanding about draft diversion, discontinuity regulation, inequality power in mediation, as well as obstacle cultural and social. Limitations source power and resistance from apparatus enforcer the law also makes things worse situation. Challenges This need addressed so that advocates can give mentoring more laws effective and quality for child in conflict with law.
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INTRODUCTION

Children are generation successor a nation that has rights the basics that must be respected, protected, and realized, accordingly with The UN Convention on the Rights of the Child has ratified by Indonesia through Constitution Number 23 of 2002 concerning Child Protection later changed with Constitution Number 35 of 2014. Children who are assessed do violation of applicable legal norms during the trial process called as child in conflict with law (ABH). However, it is necessary understood that development physical, emotional, and cognitive child different with adults. Therefore that, the way children involved in system justice criminal For protect rights they must customized with need unique they.

Idea diversion has get significant attention with the ratification Constitution Number 11 of 2012 concerning System Justice Child Criminal Procedure (SPPA) in Indonesia, methods settlement problem laws involving child known with term diversion outside system justice with the aim is for them to No entangled in system law that can harm growth social and

psychological they. One of them from Lots factors that influence diversion is ensure that troubled children with law No facing shame social and have chance For repair self without must face to face with system more laws heavy.

Diversion process This, although very useful, is not simple thing. In its implementation, it is necessary There is the party that ensures that child get protection and assistance proper law. In the context of This, Lawyer or advocate hold role important. Advocate Work For to uphold rights children and give they clear information about rights mentioned, as well as accompany child in every stages of the diversion process. This process need deep understanding from advocate about need special child as well as ability For negotiate between interested parties, such as family, party authorities, and institutions social involved.

Although role advocate is very important For accompany children who are face problem law through the diversion process, but there are still several challenges and obstacles in implementation. The main obstacle is lack of adequate understanding and knowledge from Lots advocate in understanding and applying appropriate approaches /principles of justice with rights good boy in context law positive and also in context development child That themselves. In addition, many advocate who has not fully understand philosophy diversification and more focus on completion case in scope law harsh criminal penalties. Not to mention, there are obstacles structural and source limited power, which also influence availability and quality mentoring law for children in conflict with law. In some case, cost expensive advocates also become barrier for family child For get mentoring proper law. In addition, the diversion process involves various party like institution protection children, police, prosecutors, and judges, often become complicated and confusing for children and families, who have the potential to worsen condition psychological child. In condition like this, role Skilled and experienced advocates are needed for the diversion process walk with fair and can give impact positive for children involved.

With these problems, the author is interested in researching "The Role of Advocates in Accompanying Children in Conflict with the Law in the Diversion Process". This study aims to For invites us to dig deeper into diversion and how its principles can be applied in the context of children's cases. In addition, this study is expected to provide a deeper understanding of the role of advocates in providing justice to children facing legal problems.

RESEARCH METHODS

This research uses a normative legal analysis method with a statute approach. approach) and literature review. This method aims to examine the role of advocates in assisting children in conflict with the law, especially in the diversion process, based on applicable regulations and relevant literature. The analysis was conducted on Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, Law Number 16 of 2011 concerning Legal Aid, and other related regulations.

The data in this study were obtained from secondary sources, namely primary, secondary, and tertiary legal materials. Primary legal materials include laws and regulations, while secondary legal materials include books, journals, scientific articles, and previous research reports that discuss the issue of legal assistance for children in the diversion process.

This approach also refers to various relevant court decisions to provide a more comprehensive understanding of ongoing legal practices.

Furthermore, the analysis is conducted descriptively-qualitatively by presenting findings from legal and literature studies to describe the extent to which advocates carry out their role in the diversion process. This study also identifies the challenges faced by advocates in carrying out their duties, and formulates recommendations based on legal analysis to improve the effectiveness of legal assistance for children in conflict with the law. Thus, this study is expected to contribute to the development of policies that are more responsive to the need for legal protection for children.

DISCUSSION

Understanding Diversion

Diversion originate from the word language English "diversion," which means " diversion." The idea diversion has There is since before in 1960, as proven by the formation of system justice children in the pre- 19th century. The fundamental goal behind implementation diversion This is For prevent dangers that are often caused by the system justice criminal traditional to children. Impact negative the No only covers the effects that arise from the judicial process That alone, like strict and formal procedures, but also include effect social in the form of a negative stigma or label that can attached about children who are entangled with system justice criminal. Development social and psychological children can disturbed due to this stigma, as well as potential affect his future. Therefore that, for reduce or avoid consequence said, the approach justice conventional changed and redirected to in form more mechanisms rehabilitative and restorative, which is more consider interest best child. In the context of this, diversion functioning as effort For give alternative more solutions humanist and minimize involvement child in system justice formal and tend to be criminal harm.

Diversion, according to Nasir Djamil, is a process of diversion settlement case child from system justice criminal to non- criminal system. This process, assisted by a number of party related, such as family, mentor community and authorities enforcer law, which seeks to bring together victims and perpetrators child in settlement in a way peace. Romli Artasasmita defines diversion as the authority of a judge to stop or divert the legal process against a minor during a trial. While based on the provisions of Law Number 11 of 2012, diversion is mechanism diversion case child from track formal law to non-formal pathways. Diversion process involves dialogue between children, families, victims, and professionals. Where, all the parties sit together For look for solution that does not only focus on punishment, but also on restoration and improvement.

Principles Diversified Justice

In general theory, diversion is phase transition from justice criminal to settlement based on " deliberation ". This method prioritize future recovery and find solution with prioritize values together For reach agreement. Diversion is basically follow principles main following :

1. Diversion aiming For give justice for all parties and focuses on the healing process for all parties affected by the crime.

2. Diversion attempts For fulfil demands all the party that does not can filled by the system law ;
 3. Diversion consider rights and responsibilities the answer that arises from violation ;
 4. Implementation diversion involving effort For ensure that everyone involved participate in a way active and existing empowerment
 5. Foundation diversion is idea about volunteerism, free from pressure, intimidation, or violence;
- Implementation justice diversion in system justice Indonesian criminal law.

Evaluate Diversified Justice in Approach Ontology

Although justice diversion is draft punishment, but draft This No limited to formal law and legal material criminal. Justice diversion is also necessary be noticed from corner view system justice criminal and criminology. In reality, justice integrated namely justice for perpetrators, victims and society Not yet fully guaranteed by the system justice relevant criminal law. This is what becomes strength the driving force behind idea justice diversion.

The goal is For restore life public so that those who do crime can asked for accountability on action they. Bagir Manan is the one who is explaining substance justice diversion containing values, including : encouraging collaboration between perpetrators, victims, and organizations public finish a incident or act criminal. Me. ne. put it behavior, victims, and society that works be. rsama and direct try find pe. nye. le. saian who viewed fair for all parties (win-win solutions). According to Remington and Ohlin System justice criminal in a way overall and its administration formed by a combination of administrative processes, laws, and attitudes as well as behavior social. Whereas *criminal justice. syste.m* is inte.rkone.ksi between to.decision from every agencies involved in process pe.radilan criminal. According Marjono Re.ksodiputro, purpose from system.m pe.radilan criminal is :

- a) Prevent public become victim of ;
- b) Finish case to.evil that happened that public satisfied that justice has proven and | be punished ; and
- c) M e.try to make me.re.you're the one.rnah do to.evil No me.repeat Again his actions.

Principle Diversionary Justice as Criminal Law Reform (Comparative Study)

Developed countries, the system justice criminal in essence based on the premise diversion justice. Approach This Still applied in prosecution criminal law in Indonesia, and has not yet develop to the point where the relationship between perpetrator crime and victims Good during and also after crime restored.

Office. of Victims of crime. Which be. a bit below From. parte. me. n To. the judge Ame. rika Se. rikat, me. ncatat that happen pe. the increase that significant number of rape victims who want in. rte. mukan how. direct advance with advance with a person who. nce. men me. re. ka. Me. ne. rhyme response direct from perpetrator to. evil to facts faced as consequence pe. rbuatan-nya. On the basis of experience the then in se. luruh Ame. rika So, let 's get together There is around 300 communities have joined in what is called Victim- Offe.nde.r Me.diation (VOM). The objectives are formulated in this program is provide te.safe place for se.dialogue, ne.gotation, and pe.me.cahan the problem that i.show to.pe.dulian te.towards

the future. pan and pe.mbe.empowerment of victims of crime criminal, not me.blame him consequence behavior se.be.generally. Pe.ne.given right. Rikan by.h VOM is do pe.rte.mua-pe.rte.muan introduction with second be.lah parties, so that the parties the Ready in.rte.mukan. Se.mua That will te.rwujud if orie.ntasi pe.ne.gakan law based on pe.nde.kattan system.m, namely me.mpe.rgunakan se.ge.nap elements involved in | as a to.unit and each other inter.re.lation and mutual me.me.influence One with each other show to the perpetrators obligation they. Idea like this can improve the quality of justice criminal in Indonesia and so on. A number of indicator show system justice balancing crime the needs of victims, society and the state are considered represent ideals social cultural and ideological Indonesian society, which is characterized by harmony, balance, and alignment.

Implementation Principle Diversified Justice in Witness and Victim Protection

Pe.radilan diversion me.rupakan mode.l pe.radilan which is very idea.al for pe.ne.gakan law in Indonesia, because it | balance in me.mpe.role.h pe.protection law, namely besides protect interest ne.because of me too.mbe.Rikan pe.protection law to perpetrator pe.rape and rape victims.rape. Rule in law positive very much needed existence, lit can me.end to uncertainty and to.se.balance pe.rlakuan between perpetrator to.evil with the victim of crime criminal. protection victims ' rights are regulated in Article 5 of the Law Number 13 of 2006, namely :

- a) M e.mpe.role.h pe.protection on security personal, family, and property be.ndanya, se.rta free from imminent threat with to.testimony that will, se.dang or has given
- b) follow as well | in process me.choose and me.ne.determine form pe.protection and support security
- c) Give information without pressure
- d) Get pe.ne.rje.mah ;
- e) Free from statement me.nje.rat ;
- f) Get information about development case ;
- g) Get information about decision court ;
- h) Know in matter te.rpenal dibe.baste ; me.get it idea.entity new ; me.get place to.where new ;
- i) M e.mpe.role.h pe.replacement cost transportation in | with need
- j) Get advice law ; dam/ or
- k) M e.mpe.role.h help cost life temporary until the deadline pe.protection end.

Implementation Principle Diversified Justice in System Justice Child Criminal

E.ksiste.nsi process justice diversion as alternative pe.nye.le.saian pe.rkara criminal is very determined by culture law Good from public including apparatus pe.ne.gak the law. Pe.mahaman pe.radilan who only me.nge.de.pankan pe.ne.rapan rule prove error pe.laku and then me.punish him No Can accept draft this. In Indonesia, prose. system.m pe.radilan horny child. found in the Law Number 3 of 1997 was | through Constitution Number 11 of 2012 regarding System.m Pe.radilan Child Criminal Procedure, there | change foundation.ntal as effort overcome weakness Constitution Number 3 of 1997.

System.m Pe.radilan Child Criminal Law is mandatory me.prioritize approach justice diversion. System.m Pe.radilan Child Criminal Law covers :

- a) Unless this law provides otherwise, the Law and regulations shall be complied with in the investigation and prosecution of juvenile offenses, and
- b) conducting juvenile trials within the framework of general justice;
- c) In addition, support, direction, supervision, and/or guidance both during and after committing a crime or action.

As referred to in paragraph (2) letters a and b, is necessary attempted diversion settlement case child from the judicial process criminal to a process that is not is system justice criminal. justice diversion te.lah long time ago in public Indonesia,example a the behavior that causes someone crash someone else (causes cide.ra or me.left, no seldom as well | me.rta try me.mbe.ri attention with take not quite enough answer treatment, give | money, for sorry, and so on.

The Role of Advocates in Implementing Principles Diversionary Justice in Accompanying Children in Conflict

A person who obeys condition law and endeavor give service law good inside or outside court known as advocate. For protect interest law his client, advocate give service law like advice law, help law, power, representation, defense, and basis law others. Advocate now become part from system justice criminal, based on Constitution Number 18 of 2003 concerning Advocate. This is reinforced in Article 5 paragraph (1) of the Law mentioned, which regulates that advocate protected by regulations legislation as apparatus enforcer independent and autonomous law.

“ Diversion is diversion settlement case child from the judicial process criminal to the outside process system justice criminal,” according to General Provisions Article 1 number 7 of the Law Number 11 of 2012. Purpose of transfer This in a way theory is For avoid use system justice criminal in finish matter of interest second split the party later day in frame repair the relationship that has been loose. Diversion can achieved with permission from parents, guardians or parents foster, counselor society, and legal advocate For accompany children who face difficulty Law. Advocate always can act as controller and balancer for officer police when they inspect case criminal case filed to in front they with play very strategic function This.

All aspect personnel enforcer law set up in a way Details in Constitution Number 11 of 2012 concerning System Justice Child Criminal Procedure, or SPPA, since enacted. For handle case child, detective police, investigators, prosecutor prosecutor common in the office prosecutors and court judges need undergo training special. Clause This introducing fresh ideas for system justice, particularly in the area of judicial reform child. The purpose of diversion according to Article 6 of Law No. 11 of 2012 concerning System Justice Child Criminal Acts are:

1. bringing together victims and children.
2. cases involving the children were settled outside court.
3. guard children so as not to lost his freedom.

4. push involvement in public.
5. m encourage a sense of responsibility answer to the child.

When it comes to escort children through system justice, role advocate very much important, especially in apply principles justice diversion. Diversion itself is method settlement cases involving children under age experienced problem law without through system law with objective give protection, rehabilitation and reintegration social for child This process is expected can prevent child from impact negatives that often appear as a result of the judicial process, which can influence development psychological and social they.

1. Accompanying and Protecting Children's Rights

Advocate own not quite enough answer For ensure rights children involved in law protected throughout the diversion process. This includes giving information about steps the law that will passed, and ensure that every decisions taken in harmony with interest best children. Advocates must also ensure that child get chance For convey his opinion during the diversion process. In addition, the role of advocate is very important in monitor the course of the diversion process, both at the stage investigation and also trial, purpose ensure child get fair and humane treatment.

2. Propose Completion Non- Criminal

One of principle base diversion is settlement case child with non- criminal approach, emphasizing peace and rehabilitation. In this case this, advocate play a role active in offer alternative more solutions restorative, such as do mediation between children and victims, as well as provide rehabilitation programs or supportive guidance recovery psychological child. Advocate must ensure that settlement reached No only nature punishment, but also pay attention to effort recovery for children can return join with public with Good.

3. Give Comprehensive Legal Consultation and Advice

When undergoing the diversion process, the advocate No only accompany child in front agency law, but also provides consultation to children and their families about the rights they have have as well as alternative available solutions. For example, if child the potential get diversion based on type violations committed, advocate must convey information about options more solutions emphasize importance rehabilitation compared to with punishment serious criminal offences.

4. Push Implementation of Diversification Principles Justice Restorative

Advocates also play a role important in push implementation principle justice restorative in the diversion process, which focuses on recovery connection between children, families, and communities, instead only look for mistakes and dropping punishment. Principle This involving various parties, including family, community, victims, and institution rehabilitation, in taking purposeful decision For reach peace. Through approach this, child given chance second and involves all party related in the process of recovery.

5. Represent The Interests of the Child in General Professional

One of challenge in accompany children facing each other with law is ensure they No become a victim of a legal process that can detrimental. Advocate must play a role as an independent and professional representative, avoiding conflict interests, and ensure that decisions taken No harm right child. Every decision must based on the principles considerate justice No only action children, but also context social, psychological and family they.

Importance justice restorative started from need For protect and guard rights the child who is problematic with law. Justice restorative, at the very least, aims For redeem crimes committed by minors age with replace actions that benefit victims, children, and the environment. Therefore that, they No can asked for accountability in a way law on action they Because they considered Not yet mature in a way psychologically and physically, children who do crime No allowed For participate in system law official. Because it places priority high on justice, interests children, and have rule sufficient meaning clear, concept justice restorative in system justice criminal child in line with corner view profit law.

Remember that mischief teenager is problem humanity at a time social, society in a way overall responsible answer For overcome it. It is important For thinking about the future children who are face difficulty law. Protection rights child regulated by various laws and regulations, and their application reflect problems faced children. Services and care For troubled children with law designed For help they overcome challenges that arise during their normal development.

Building connection positive between parents and children in a way effective can help prevent mischief teenagers. Four (four) components are present in every interaction process parent-child must included in component base every relationship process parent-child. Components the is as following:

1. Inherent supervision

Trust child to something become base monitoring attachment. With give rewards and Types of monitoring this, which involves punishment for parents on desired behavior and also No wanted children they, trying set standards and related values close with development of shyness and fear in children.

2. Supervision No direct

supervision No direct with fostering a sense of trust in children so that emotions and desires can appear without endanger or to embarrass family, involving child in conflicting behavior with expectations of parents and siblings. Development of a sense of attachment between children, parents, and children are greatly helped with type supervision This.

3. Supervision direct

Rules and penalties child become emphasis main supervision directly. For example, the guidelines about method utilise time free time best of all, when parents and children go out, and how choose Friend play that supports healthy and non-disturbed mental development of children endanger they moment they not at home.

4. Fulfil need

Parental capabilities For prepare children them to succeed in school, as well as in interaction they with Friend peers and society broad, correlated with fulfillment need them. However, the children ex- perpetrator act criminal is an integral part of society and must acknowledged. Therefore that, involvement public in liberation ex-perpetrator act criminal teenager need handled with the way that ultimately will provide benefits to the state and nation.

Commonly Faced Challenges Advocate in Diversion

Diversion is an approach that focuses on improving the impact caused by a act criminal, with involving perpetrators, victims, and communities. Approach This considered more oriented towards humanity, especially in cases involving child as perpetrator. As individuals who are still in the process of growing and developing, children own rights that must be protected, so that approach retributive in nature punish often rated No in accordance with principle protection child.

When a person child allegedly do act criminal, legal process must handled with be careful. Criminalization is not may used For protect children involved in act criminal Because No always finish the existing problem. Therefore that, situation child must handled with right, make sure rights they enforced and not ignored. The existence of the Law Number 11 of 2012 of the Republic of Indonesia concerning System Justice Child Criminalization is expected can realize enforcement fair and complete law problem act crimes involving child. One of form its implementation is through mediation, which aims to For finish conflict between perpetrator and victim, at the same time prevent involvement child more Far in system justice criminal. However, even though framework law has available, advocate to accompany child in the mediation process often face various obstacles. Obstacles the No only sourced from aspect law, but also involves dimensions social, cultural, psychological, and technical matters that affect smoothness implementation mediation.

1. Lack of Understanding about Diversion

Although Diversion has set up in the SPPA Law, its implementation Still face various obstacles, one of which is is lack of understanding between parties involved, incl advocate. Many advocates Not yet to obtain training special about concept and application diversion, so that role they often times only limited to accompanying child in litigation process conventional.

As a relative approach new in system justice criminal law in Indonesia, Diversion requires deep understanding about principles basically as well as objective term length. However, still Lots advocates and officers enforcer permanent law stick to the paradigm traditional, namely approach retributive which focuses on giving punishment to perpetrators. As a result, the implementation mediation often not walk optimally because lack of support and coordination between parties involved.

In addition, the lack of socialization about diversion to public participate to worsen condition. Many members society that views approach This as effort lighten up punishment for perpetrator act criminal, especially If perpetrator is child. Condition This

make advocate must try more hard For convincing all parties to be willing participate in the mediation process.

2. Discontinuity Regulation and Implementation

The SPPA Law provides base law for implementation diversion, however often not equipped with rule more technical detailed at the level area. As a result, there was difference in interpretation and implementation mechanism mediation in various regions in Indonesia.

As example, in a number of case, advocate face difficulty in determine role they in the mediation process. The SPPA Law does not in a way Details arrange limitation or not quite enough answer advocate in mediation diversion, so that they often plays a role in a way flexible, start from become companion child until informal facilitator. Ambiguity This can cause conflict between advocate with apparatus enforcer law others, such as police, prosecutors, or judges, who have understanding different regarding the mediation process.

3. Inequality Power in Mediation

In implementation mediation diversion, often appears inequality power between children involved in case law, victims and families they. The child who became perpetrator act criminal often considered as the weak and helpless party own sufficient ability For disclose opinion they.

Inequality This often exacerbated by conditions social and economic family child. For example, in a number of case, family child perpetrator originate from layer underprivileged society able, so that they No own sufficient access to mentoring law or source Power others. As a result, advocates must make an effort more hard For ensure rights child still protected during the mediation process.

On the other hand, the victim or the victim's family often dominate the way mediation with demands that are not balanced, like request change excessive loss or demands severe punishment to perpetrator. In the circumstances like this, advocate must capable become a wise mediator, while ensure that interest best child still protected.

4. Obstacle Culture and Social

Culture local often become obstacle in implementation diversion in Indonesia. In some areas, patriarchal and hierarchical norms still very dominant, so that children often not considered own significant role in the legal process.

As for example, in some community, decision related mediation more often taken by adults, such as head family or figure society, without involving direct child affected. This is contradictory with principle diversion that places child as party main in the mediation process.

In addition, there is a negative stigma to children facing each other with law also becomes obstacle big. Children involved in act criminal often viewed as “ child naughty ” or “ problematic ”, so difficult For accepted back by the community, even though the mediation process has successful. In the situation this, advocate must face attitude society that does not support, at the same time make an effort help child restore image they are in the community.

5. Limitations Resource

Obstacle the main issues faced by advocates, such as limitations source power and pressure time, need realized and handled shared by the community law and the makers policy. Implementation mediation diversion need support source enough power, good in matter facilities, time, and power expert. However, in many areas, especially in remote areas, sources Power This often not can accessed or No available.

As for example, many mediation processes done without a safe and supportive space for children. In addition, the facilitator who leads mediation often not own sufficient training in handle cases involving child. Situation This create a mediation process not enough effective and more difficult For reach objective desired recovery.

6. Pressure Emotional and Psychological Child

Children involved in case law often dealing with trauma, stress psychological, or fear that affects involvement they in mediation. Under the condition like this, advocate No only functioning as companion law, but also as support psychological help child overcome pressure emotional that they feel.

However, many an advocate who does not own skills special in handle child with need psychological certain. This is make they difficulty in to weave effective relationship with children, especially If child show attitude apathy, fear, or No believe in the legal process.

7. Resistance from Apparatus Law enforcer

Although diversion Already set up In the SPPA Law, there are many apparatus enforcer the law that is still show rejection to approach this. Some apparatus, such as police or prosecutor, thinks that mediation precisely can reduce effect deterrent for perpetrator act criminal.

Rejection This force advocate For try more hard convincing apparatus to support implementation mediation. In some case, litigation process more often chosen Because considered more fast and easy compared to with mediation.

CONCLUSION

With ensure that rights child enforced During the trial process, an advocate is very important in procedure diversification for children who are face problem law. In addition to offering consultation and advice law about rights children and choices potential solutions, they recommend non- criminal settlement that prioritizes rehabilitation and recovery. In addition, advocates push implementation principle justice restorative with involving all party in taking decision For reach peace. They also act as a professional independent representative, avoiding conflict interests, and consider context social as well as psychological child. With thus, advocate contribute significant in apply principles more justice humanist in the process of diversion. Advocate play role important in help children who face problem law during the transfer process, but they also face a number of difficult obstacles. Among difficulty main is lack of understanding about draft diversification among advocates and the community, which often results in difficulty in implementation mediation. In addition, the discontinuity regulations and implementation in various regions cause difference in interpretation and practice, so that advocate often not own clear guidelines. Inequality power in mediation also

becomes problem, where the child as perpetrator often considered as the weak party. Obstacles culture and social, limitations source power, and pressure emotional experiences child participate to worsen situation. Resistance from apparatus enforcer law to approach diversion also adds difficulty for advocate in operate role them. Therefore that, the challenges This need addressed so that advocates can more effective in give mentoring quality law for child in conflict with law.

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