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### Law Handling Administrative Violations against Minors from Practice in District 1, Ho Chi Minh City

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#### Abstract

Managing and educating minors who violate the law is an important issue in the legal system for handling administrative violations in our country. Many measures have been implemented to prevent and prevent crimes in this subject. Although the 2012 Law on Handling Administrative Violations has been amended and supplemented to increase effectiveness in regulating and protecting social order. However, juvenile violations have not decreased, especially in large cities such as Hanoi, Hai Phong, and Ho Chi Minh City. The cause of this problem comes not only from family, school, and social institutions but also from social networks

and the downside of the market economy, which negatively impacts some teenagers. Although the Law on Handling of Administrative Violations has strict regulations for minors, the implementation method still faces challenges. There are handling situations that tend to punish without ensuring appropriateness and effectiveness in preventing and rehabilitating behavior. Therefore, the article proposes solutions to improve the law, while supporting the handling and education of minors, helping them integrate and become active members of society.

**Keywords:** Law, Handle, Administrative Violations, Minors, District 1, Ho Chi Minh City

#### 1. Introduction

Ho Chi Minh City is one of the leading cities in the country not only in terms of population, economic development, and rapid urbanization... it is also a typical locality in terms of situation and number of juveniles. Violations of the law are handled administratively and criminally with many nuances and complexities. In particular, if it can be said that Ho Chi Minh City is a "model" for urban areas across the country in all areas of social life, then District 1 can be considered the center and "core" of the city. This city. To be more precise, District 1 is the most condensed and concentrated miniature image of Ho Chi Minh City, with all the elements and characteristics of vibrant socio-economic development, and is also a standard represents the situation of minors committing administrative violations - if not prevented and prevented early with appropriate, effective and feasible forms of handling and punishment - will inevitably develop quickly into illegal acts. criminal offense with the causes and social conditions mentioned above. Due to these reasons, researching and proposing solutions to perfect the law on handling administrative violations against minors is both an urgent and long-term requirement in the current and future situation. Especially meaningful for the reality in District 1 - the urban center of the city - as well as for the situation of the entire Ho Chi Minh City. With those perceptions, the author chose the article topic: "Legislation on handling administrative violations against minors who violate the law: From practice in District 1, Ho Chi Minh City", with the desire to highlight common social causes that are not regulated by law or are inappropriately adjusted, is limiting the need to reduce violations and crimes among juveniles today, pointing out the Inadequacies of the current law on handling administrative violations against minors Thereby, we propose several legislative directions and solutions and appropriate implementation mechanisms to improve the effectiveness of preventing violations and crimes among juveniles; Proposing solutions to support handling, educating and helping minors recover from deviations, and have more conditions for choosing opportunities to become useful citizens for society.

#### 2. Theoretical Basis

##### 2.1 Concepts and characteristics of juveniles and juveniles in violation of the law

The concept of a minor is often based on factors such as age, and physical and psychological development. A minor can be

defined as a person who is not yet physically and biologically mature and does not have full awareness or consciousness, according to the universal definition. The provisions of the 2015 Civil Code explain that a minor is a person under the age of 18 according to Article 21, while the 2015 Penal Code uses the term "person under the age of 18 who commits a crime", demonstrating close access to world criminal law regulations.

However, the specific age for people under 18 years old may vary in each country, according to the International Convention. Although the terms "under 18 years old" and "under 18 years old" may be understood differently, according to legal semantics in Vietnam, both can be used similarly.

Although the Vietnamese legal system does not have a unified definition of "minor", based on international regulations, it can be affirmed that a minor is a person under/under 18 years of age. However, this concept is ambiguous when applied to other terms such as "Children", "Adolescents", "Adolescents", and "Adolescents".

The unclear issue between the terms "child" and "worker" sometimes leads to abuse, and the concept of a minor as "a person under/under 18 years of age" can confuse when applied. For "Youth" and other age regulations in Vietnamese law.

Therefore, in the author's opinion, it is necessary to unify the age of minors according to the provisions of the 2012 Law on Handling of Administrative Violations from 12 years old to under 18 years old.

The concept of a juvenile in conflict with the law is a person under the age of 18 who has violated the law. Violating the law in a broad sense is an illegal act that can be handled administratively or criminally according to the provisions of the Law on Handling of Administrative Violations 2012 and the Penal Code 2015, as well as other regulations. About legal liability. However, within the scope of the topic, violating the law is understood as an act of violating the provisions of the law on state management, not a crime.

## ***2.2 Concepts and characteristics of the law handling administrative violations against minors***

The concept of law handling administrative violations against minors is understood in the actual implementation and application of the law today as the process of applying legal liability measures for violations of regulations. Regulations on State management, but are not considered crimes. These regulations are implemented through administrative procedures conducted by competent state administrative agencies, instead of through court agencies and judicial procedures, except in certain decided cases. Using handling administrative violations.

The Law on Handling of Administrative Violations 2012 regulates sanctions for handling administrative violations, including handling administrative violations and administrative handling measures. Both types of sanctions are considered independent and have certain differences. Handling administrative violations is a common administrative measure applied to individuals and organizations that commit administrative violations. It includes sanctions such as warnings, fines, revocation of the right to use licenses and professional practice certificates, confiscation of property and vehicles for administrative violations, as well as deportation of foreigners.

The law also stipulates that some main penalties can be converted into additional penalties, including revocation of the right to use licenses and professional practice certificates, confiscation of property and means of administrative violations, as well as expulsion. Depending on the specific situation of the violation, it can be applied at the same time or independently of the main penalty.

Alternative measures for handling administrative violations are educational measures applied to replace penalties or administrative handling for minors who commit administrative violations. This includes reminders and home management measures.

Administrative handling measures are specific and more coercive than conventional forms of handling administrative violations. They only apply to individual violators, based on their identity, age, and specific violation. Administrative measures include education in the community, sending to reformatories, sending to compulsory educational establishments, and sending to compulsory medical treatment establishments.

For minors when being handled for administrative violations, the application of forms and measures to handle administrative violations needs to be done carefully and ensure that they are appropriate to their age and awareness. And their properties. During the consideration and handling process, the competent person must ensure the best interests of the minor. Principles for handling administrative violations applicable to minors include:

Determine the cognitive ability of minors about the danger of violations and the causes and circumstances of violations to decide on sanctions or apply appropriate administrative measures.

Penalties and decisions to handle administrative violations for minors must be lighter than those for adults with the same violation.

Protect the privacy of minors during the process of considering and applying administrative handling measures. Pay attention and promptly consider applying alternative measures to handle administrative violations when legal conditions are met.

The concept of handling administrative violations against minors in handling administrative violations is the process of applying conditional legal liability measures of the State to educate, help, and protect. Them to correct their mistakes and become useful people for themselves, their families, and society.

Characteristics of the law on handling administrative violations against minors include main differences such as the purpose and sanctions of handling administrative violations, procedures and sanctioning processes, and basis for generating creates legal liability, and grounds for determining administrative legal liability for minors.

## ***2.3 Legal basis for handling administrative violations against minors***

*Overview of the history of laws dealing with administrative violations against minors who violate the law*

The history of laws handling administrative violations against minors in Vietnam has gone through important stages, showing development and adjustment to meet the requirements of the period and situation. Specific social form.

In 1977, the Charter on Penalties for Violations was issued under Decree No. 143-CP, this was the first legal document dealing with administrative violations in Vietnam. With 3 chapters and 33 articles, this Charter stipulates the handling of violations that are simple, clear, and have no serious consequences. For juvenile offenders, clear regulations regarding education and responsibilities of parents or educators.

In 1989, the Ordinance on Sanctions of Administrative Violations was promulgated, an important step forward with 6 chapters and 42 articles. The concept of "violation of administrative law" is defined in detail, laying the basis for a better understanding of violations. Regulations on administrative responsibilities for minors have also been updated, especially increasing the age at which handling measures can be applied.

In 1995, the Ordinance on Handling of Administrative Violations made significant improvements, replacing the term "sanction" with "handling". Clearly state the handling of administrative violations, including fines and other handling measures. In particular, the regulation on the minimum age of minors subject to handling measures has been raised.

Subsequent amendments and supplements, such as the Law on Handling of Administrative Violations in 2002 and the Law on Handling of Administrative Violations in 2012, also emphasized updating and responding to new situations, especially for the situation of law violations by minors. However, along with economic and social development, many new challenges also appear, especially with the diversity and complexity of violations, requiring perseverance and creativity in completing them. Improve the law on handling administrative violations to be more effective in educating and preventing violations of minors.

#### *Law provisions on handling administrative violations against minors*

Laws on handling administrative violations against minors need to focus based on handling, which is the fact that minors commit illegal acts. When a minor commits a violation, the law will apply the same administrative liability as an adult. The general principle is that a violation can only be penalized once, multiple people committing the same violation will be penalized each, and a person committing multiple violations will be penalized depending on each behavior.

However, for minors, there are separate legal institutions, emphasizing the goals of care, educational management, and protection of minors according to the policies of the Party and State. The 2012 Law on Handling Administrative Violations stipulates penalties and administrative measures. When a minor commits a violation, the consequences of administrative sanctions or application of administrative handling measures will depend on the behavior, age, nature, and consequences of the violation, and compliance with specific laws. Of each case.

#### *Competence and procedures for handling administrative violations against minors*

Administrative sanctions in general or the application of administrative sanctions in particular to minors (as well as to adults) all have the same principle that they must be carried out by competent persons by regulations, legal order and procedures. This is one of the legal principles, according to

which, only positions prescribed by law have the authority to decide to handle administrative violations, and the handling must comply with correct and complete processes and procedures. law.

The Law on Handling Administrative Violations regulates more than one hundred positions with the authority to handle administrative violations and apply remedial measures. Besides these positions, no other person has the authority to handle administrative violations. The Government's Decrees, when regulating administrative sanctions in specific fields, also do not stipulate new positions with the authority to impose administrative sanctions. The law also clearly stipulates the order and procedures for carrying out sanctions, as well as the specific authority of each position with sanctioning authority, the authorization of sanctions...; Especially about the application of administrative measures for minors, the law stipulates quite well clearly authority and procedures for applying this measure.

#### ***2.4 Theoretical and legal basis for preventing minors from breaking the law in some countries and experience in Vietnam***

Minors are an important resource and the future of the country, and countries always focus on protecting and investing in the legal field. This model is built based on the principles and spirit of the International Convention on the Rights of the Child, with criteria such as the best interests of the child, the child's right to exist and develop, and non-discrimination., the right to express opinions, and the right to be heard.

In the UK and France, there are laws such as "The Children Acts", "Crime and Disorder Act 1998" and "Loi n° 2016-297 relative à la protection de l'enfance" (Law on child protection) that have integrated principles of protecting minors entering the legal system. In handling decisions, courts in the UK always emphasize the welfare of minors, complying with the principles of the International Convention on the Rights of the Child.

France is currently implementing crime prevention against juveniles mainly through education and society, with the participation of agencies such as "Code de l'action sociale et des familles" and "Loi n° 2016 -297 relative à la protection de l'enfance." School supervision and relay services are also used to support adolescents at risk of dropping out of school. However, the French Republic is somewhat cautious with the concept of "early prevention" for juveniles in conflict with the law, focusing on supporting families and students to solve problems that arise in their children. Both countries demonstrate the importance of the "axis" of State - school - family to prevent deviations in the thinking and behavior of adolescents.

### **3. Research Results**

#### ***3.1 Overview of some characteristics of the socio-economic situation in District 1, Ho Chi Minh City***

District 1 has the location and role as the center of the special urban area of Ho Chi Minh City - to the north it borders District 3 and Phu Nhuan district; The East borders Thu Duc City; The West borders District 5 and the South borders District 4. The district has an area of 7.73 km<sup>2</sup>, has 10 residential wards and more than 205,000 permanent residents, accounting for 2.1% of the total population of Ho Chi Minh City. The entire district has 383 regular areas with

38,428 households and 59 special areas with 2,238 people - also the concentrated area of most administrative agencies; specialized agencies; diplomatic Department; and Representative offices from central, city to local and foreign organizations. This area is also the financial, banking, cultural, and sports center of Ho Chi Minh City and the southern region of the country. Average district budget revenue: 18,000 - 19,000 billion VND/year.

It can be said that District 1 is the most modern and crowded residential area in Ho Chi Minh City and the whole country. The bustling pace of life takes place day and night, representing a special urban center called "The City Never Sleeps" (In which, Nguyen Hue walking street, Pham Ngu Lao west street, Bui Vien, Ben Thanh Night Market, Bach Dang Port, Dong Khoi... are places frequented by international tourists frequent). This place brings a colorful experience of culture and cuisine, becoming the busiest gathering place in the city.

Although the number of permanent residents is just over 205,000, in reality, the number of people from localities across the country and internationally who visit here from a day to a few weeks averages hundreds of thousands. Compare: The number of foreigners in the whole country more than 4 million people entering Vietnam; 50% of visitors come to Ho Chi Minh City and among them, the number of visitors staying and visiting in District 1 is more than 80% of the total number of visitors in Ho Chi Minh City. In 2019 (before the Covid epidemic), District 1 received 7 million international visitors and 26 million domestic visitors.

The number of domestic and foreign people coming to District 1 is very diverse in terms of social class and religion; age and gender; both legal and illegal. Shows that this is a strongly developed urban area in all fields of politics, economics, culture, diplomacy, etc. among the "top" in the country; but it is also the most "exciting" center in terms of the number and types of law enforcement in general and law enforcement minors in particular - always a big challenge for State management of security and social order. Association and protection of civil rights and human rights here.

Since September 25, 2015, the People's Committee of Ho Chi Minh City, together with UNICEF Vietnam, has committed to building the city into the first "Child-friendly city" in Vietnam. Ho Chi Minh City, one of Asia's fastest-growing cities, will become a model in the region, where every child from birth has a fair start in life. Live and grow in a safe environment. In particular, the District 1 government also has the determination and desire to strive to be a successful unit in that exciting emulation movement.

### **3.2 Current status of law violations and application of laws to handle administrative violations against minors in District 1, Ho Chi Minh City**

#### **a) Current status of law violations by minors**

The number of children under 18 years old in District 1 accounts for 12% of the population, including about 18,000 people. People from other localities account for 0.8% or 800 people. The average number of children from 12 to under 18 years old is 800-1,200/person/year from 2018-2022, with crime rate: 5.2% under 14 years old, 24.5% from 14-16 years old, 70.3% from 16-18 years old Female juveniles in conflict with the law decreased from nearly 11% in 2017 to 10% in 2020.

In the 10 wards of District 1, law violations committed by minors are mainly administrative violations, accounting for about 63% from 2018-2020. However, the number of administrative violations decreased by 66%, while criminal crimes decreased more slowly (35%), increasing the proportion of criminal crimes. In 2022, the rate will be 58% for administrative violations and 42% for criminal offenses.

In 2022, Ho Chi Minh City will have 2,628 cases of juvenile delinquency, accounting for 52.85%, with 35.4% in District 1. Most of the subjects are new offenders, unstable, and have low education levels. From the end of 2020 to the first quarter of 2023, law violations involving minors increased, especially by 23% compared to the same period in 2022, with school violence on the rise.

Juveniles are often involved in acts of property appropriation, drugs, and illegal racing. Although the situation decreased after the quarantine, when social activities returned to normal, law violations increased again (Year 2019: 1026; Year 2020: 741; Year 2021: 220; Year 2022: 932).

There are many cases of juveniles developing "deviantly" such as theft, drug trafficking, and school violence. District 1 authorities and Ho Chi Minh City leaders are facing great challenges to resolve this situation and ensure social security.

#### **b) Practice of handling administrative violations against minors who violate the law**

The system of implementing penalties for administrative violations is a complex task, assigned to many competent agencies and individuals. However, the reality of statistics and reporting on the law on handling administrative violations, especially for minors, is difficult due to inconsistencies and inaccuracies in data, which can lead to limitations. Institutions in State management.

During the period from 2020-2022, there were 763 cases of administrative violations in the district of juveniles violating the law. Of these, only 22 cases were warned and 501 cases were fined, the rest were warnings. However, the application of reminders is not sufficient, and some authorities consider it ineffective. In addition, the way to implement and record information about the application of this measure is also difficult.

Applying the Social Education Measure and the Reformatory School Measure in the period from 2020-2022 has a total of 349 cases and 77 cases, respectively. However, the actual assessment shows that there are concerns about openness and transparency in the verification and documentation process, and the time limit for applying the measure of sending to a reformatory is considered too long.

Effective implementation of laws on handling administrative violations for minors, they have not yet achieved expectations. In District 1 and other districts, the Social Education measure is less effective due to the lack of implementation of the most important content. The method of sending to a reformatory, although widely used, is often imposed and inflexible. The education of minors at the facility has not achieved the expected results, and the application of this measure is often only statistical.

Up to now, the recidivism rate of juveniles after their time of management and education has ended is quite high, accounting for at least 26%, posing a big challenge in effectively implementing the law on handling crimes. administrative violations against this subject.

*c) Forecasting shortcomings and limitations that will arise in the coming time in handling administrative violations against minors*

Forecasting limitations in handling administrative violations of minors come from surveys of 03 target groups, interviews with experts, and parents. The main causes include ineffective management and education, lack of a positive environment for youth, and inconsistent assessment of juveniles in conflict with the law. Juveniles who violate the law often reflect difficulties in the family and social environment, and the negative impact of market mechanisms.

Amending the Law on Handling Administrative Violations in 2020 mainly focuses on administrative violation conditions, expanding subjects, and applying the measure of sending to reformatories. However, there is a lack of consistency with current criminal policy for people under 18 years old. This change is unlikely to reduce the situation of juveniles breaking the law and is not related to the social and psychological roots that cause deviation from the norm, transforming into violations and crimes.

It is expected that the revised measures will not be significantly effective in reducing the situation of juveniles breaking the law, and the situation may continue to increase. This is a result of the lack of guidance and effective solutions to this problem, which is likely to hurt the Vietnamese population.

#### **4. Discuss Research Results**

*a) General needs and directions for improving the law on handling administrative violations against minors*

Currently, minors violate the law there is an increasing trend in the number and level of crime, especially the problem of "school violence" and "street" children. Many cases fall into the group of breaking the law of dropping out of school early, involving drugs, illegal racing, theft, and causing social disorder. However, many people are minors not realizing that their behavior can be severely punished by the law, often due to limited awareness and ineffective management mechanisms.

Law on Handling Administrative Violations, after amendments, still has shortcomings, such as the system of legal documents being scattered and not synchronized, and the subject of law implementation being quite "limp". There needs to be an orientation to build a separate legal system for juveniles who violate the law, and at the same time promote the "Family - school - locality of residence" mechanism to early prevent violations - young criminals. Chemistry. Training and raising awareness for law enforcement and legal experts is necessary to effectively handle and protect vulnerable juveniles.

*b) Contents of completing and enforcing the law on handling administrative violations against minors*

Proposing specific measures to improve the content and form of the law handling administrative violations against minors:

*The first is to build juvenile justice:*

Unifying the age of legal responsibility: Proposing a unified age from 14 to under 18 years old for administrative and criminal sanctions, overcoming the inadequacy of the age difference.

Eliminate administrative handling measures in the Law on Administrative Handling: In cases where the Law on

Juvenile Justice has not yet been developed, eliminate administrative handling measures that are not consistent with sanctioning of administrative violations.

*The second is to build a juvenile justice court system:*

Separate from the local court system: Create an independent juvenile justice court, directly under the General Department of Justice, specifically handling administrative violations of minors.

Expand the application of diversion measures: Strengthen the application of diversion measures, and limit the use of criticism and social isolation measures.

*Third, build an organization to support juvenile justice:*

Specialized support organization: Form a specialized organization with experts from unions, schools, hospitals, and psychological communities to receive and process information about law violations by minors.

Ensure fairness and transparency: Clearly define the organization's operating procedures and standards to ensure fairness and transparency.

*Fourth: Training and fostering judicial support for civil servants*

Program: Develop a periodic training and fostering program for civil servants and State employees related to judicial support.

*Fifth is: Strengthening the "Axis" of Family - School - Society:*

Building an information exchange mechanism: Educational, social, and mass mobilization organizations need to build a mechanism to exchange information about the behavior and psychology of minors to come up with corrective and motivating measures. Timely pills.

*Sixth: Propagate and disseminate legal knowledge:* Regularly propagate and disseminate legal knowledge and civic ethics to minors through practical and competitive activities.

These proposals aim to promote the rehabilitation and reintegration of juveniles rather than harsh punishment. It should be noted that these measures should be applied flexibly and by the specific circumstances of each case.

#### **5. Conclusion and Recommendations**

Today, protection and prevention matter minors breaking the law plays a very important role in contributing to building political stability and economic development of the country's society. This shows the situation Minors from Administrative law violations quickly transform into criminal law violations, which is becoming an urgent and painful problem of society. Although, the State has built a legal framework with a rather massive system of legal documents dealing with administrative violations to regulate and prevent the wrong and illegal acts of minors. However, the reality of administrative handling and application of administrative handling measures by the court shows that the administrative legal system for minors still has contradictions, inadequacies and inconsistencies. set; Therefore, it has made it difficult for the State and society to manage, educate, and reduce violations and crimes among juveniles.

As a person who has had practical activities in the field of law for many years, in the face of the unabated situation of juveniles breaking the law over the years, the author himself has been thinking very hard about the current limited situation of the administrative law system and especially the law on handling administrative violations against minors.

With knowledge accumulated during the process of working, studying and researching; combining the use of scientific research methods... within the scope of the thesis, the author tries to clarify some theoretical issues about juveniles and their violations of the law. Thereby, we propose specific directions and solutions to build and improve the juvenile justice system in general; Propose solutions and determine the role and great significance of perfecting administrative handling measures for juveniles in violation of the law. Therefore, if the solution to restructure administrative measures is researched fully, systematically and scientifically, it will hopefully be meaningful and create interest and attention from lawmakers. administrative; as well as making a useful contribution to teaching and researching administrative law in our country.

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