

Summary

The year: 2020.

Specialty / field of study (code and full name): 40.03.01-Law

Level of study: bachelor's degree.

Institute or Higher school: Law University.

Department of criminal law disciplines and forensic expertise

The subject of the final qualifying work:: "Criminal liability of minors".

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The relevance of the research topic. Criminal liability of minors and practice of purpose of punishment by it is implemented by means of application of basic provisions of criminal policy of the Russian Federation in this sphere which is formed on the basis of special approach to realization of criminal liability of this category of offenders on all extent of historical development of our state. Russia at certain stages of historical development constantly faces the problems of homelessness and neglect of minors acting as major factors of commission of crimes by the persons who did not reach eighteen-year age. Now in our country the economic crisis affecting all spheres of life of our society, and, respectively, having negative effect on a condition of criminal policy of the state in the sphere of counteraction of crime of minors is observed. Statistical data confirm rather large number of the crimes committed by minors or at their partnership. So, according to the Ministry of Internal Affairs of the Russian Federation in 2019 in the Russian Federation every twenty fifth crime (3.9% of total number of the registered crimes) is committed by minors or at their partnership.

The purpose of the work: theoretical judgment of questions of a legislative regulation of criminal liability of minors and purpose of punishment by it and also development of suggestions for improvement of the criminal legislation and law-enforcement practice in this sphere

Objectives: to define the concept of criminal liability of minors and to identify its forms; to consider issues of age criteria for criminal liability of minors; to analyze the features of the modern criminal legislation of the Russian Federation governing the responsibility of minors; consider the general principles of sentencing minors; analyze individual visible punishments applicable to minors; to develop proposals to improve legislation on the criminal liability of minors, as well as to improve the relevant law enforcement practice.

Theoretical and practical significance of the research: lies in the development of theoretical ideas about the criminal law aspects of combating juvenile delinquency. Conclusions and recommendations can be used both in the educational process, and in improving legislation, as well as the practice of its application and preventive activities to prevent the criminal behavior of minors.

Results of the study:

1. It should be noted that today properly the existing system of resocialization of juvenile offenders, as well as the system of the help to children does not work with deviant behavior. Subjects of prevention of precriminal behavior of children face a number of difficulties of the objective and subjective orders which are not allowing to keep the teenager from violation of the law. In our opinion, the age of criminal liability should be lowered, but only with introduction of a full-fledged system of the juvenile justice providing other bodies considering similar cases, other punishments, other correctional facilities.

2. Standards of Part 3 of Article 20 of the Criminal Code of the Russian Federation and Article 22 of the Criminal Code of the Russian Federation are not coordinated. Comparison of the text of these articles makes clear inadequacy and nonequivalence of legal consequences of their application. It is expressed that the teenager who does not have a mental disorder in any form, but finding lag in mental development owing to pedagogical and social neglect, features of education has to be exempted from criminal liability. On the other hand, if the minor has mental retardation, as other mental anomalies and is recognized as responsible on criminal case, but incapable fully to understand the actual nature and public danger of the actions, then he is subject to criminal liability. Such law-enforcement practice is contrary to the principles of legality, equality of citizens before the law, humanity and justice (Article 3, 4, 6, 7 Criminal Code of the Russian Federation).

3. The fine which is ordered to pay to the minor convict by a court decision can be collected from his parents or other lawful representatives from their consent. It is represented that this norm not quite accords with the fundamental principles of criminal law – the principle of equality of citizens before the law and the principle of personal guilty responsibility. According to Part 1 of Article 5 of the Criminal Code of the Russian Federation ("The principle of fault"), "the person is subject to criminal liability only for those socially dangerous actions (inaction) and the come socially dangerous consequences concerning which his guilt is ascertained". However the legislator in the current version of Part 2 of Article 88 of the Criminal Code of the Russian Federation allows a possibility of application of a coercive measure to the innocent person from his consent. One more problem can arise with execution of the fine which is ordered to pay to the minor if the court comes to a conclusion about an opportunity to collect a penalty from parents or other lawful representatives of the minor convict from their consent. Certainly, at absence at minor earnings or property on which collecting can be turned courts will pronounce the sentences prescribing fine only having received prior consent of parents or other lawful representatives of the guilty person to pay for it a penalty. However neither the Criminal Code of the Russian Federation, nor the PEC of the Russian Federation legal consequences of refusal of these persons of payment of a penalty are provided. Norms on malicious evasion from payment of a penalty extend only to convicts, but not to their parents and other lawful representatives.

4. The Criminal Code of the Russian Federation does not define ways and control devices behind behavior conditionally condemned since the order of its implementation is assigned to criminal and executive inspection which activity regulates the PEC of the Russian Federation. According to Part 4 of Article 188 of the PEC of the Russian Federation they are obliged to report to supervisory authority and to be on a call in criminal and executive inspection. In case of absence without good reason the convict can be subjected to the drive, and according to Part 4 of Article 190 of the PEC of the Russian Federation at non-compliance with this rule conditional condemnation can be cancelled by court. At the same time standards of the PEC of the Russian Federation do not contain the requirement obliging conditionally condemned not to change residences, works, studies without notice about it body, which is carrying out its correction whereas the essence of control is defined by this law.

Recommendations

- to supplement Chapter 4 with article "Sanity", having stated it in the following editorial office "The Person Who during Commission of Crime Reached Age of Criminal Prosecution Is Subject to Criminal Liability and Could Realize the Actual Nature and Public Danger of the Actions or Direct Them";

- to add Part 3 of Article 20 of the Criminal Code of the Russian Federation: "If the minor with a mental disorder is recognized as sane, but owing to lag in mental development, does not correspond to age of criminal prosecution, it is not subject to criminal liability";
- restoration of former edition of Article 88 of the Criminal Code of the Russian Federation is expedient at assignment of punishment in the form of a penalty to exclude a possibility of transposition of a duty of payment of a penalty from the minor on his parents or other lawful representatives;
- court, applying punishment in the form of corrective works to minors, has to consider provisions of the legislation on work. In this regard UK is obviously necessary to make additions to Part 4 of Article 88, having stated it in the following edition: "Corrective works are appointed by the minor convict taking into account provisions of the legislation of the Russian Federation on work. Corrective works by the minor are established for a period of two months up to one year";
- the offer of a number of researchers on need of allocation for the Criminal code of the Russian Federation of the independent institute devoted to conditional condemnation of minors is advisable.