JURNAL WAWASAN YURIDIKA
Vol. 9 | No. 2 | September 2025 | Pages: 188-206
p-ISSN: 2549-0664; e-ISSN: 2549-0753
Published by Sekolah Tinggi Hukum Bandung

Lex Favor Reo and Adjustment of Suspended Sentences and Fine-Default Imprisonment

Raja Okto Simanjuntak[1], Setiawan Noerdajasakti[2], Abdul Madjid[3], Mustafa 'Afifi Ab. Halim[4]
[123] Faculty of Law, Brawijaya University, Malang, Indonesia
[4] Faculty of Syariah and Law, Universiti Sains Islam Malaysia, Malaysia
✉ Corresponding author: simanjuntakrajaokto@gmail.com

Article history:
Received: 8 May 2025 | Accepted: 19 September 2025 | Published: 30 September 2025

How to cite:
Simanjuntak et al., "Lex Favor Reo and Adjustment of Suspended Sentences and Fine-Default Imprisonment," *Jurnal Wawasan Yuridika* 9, No. 2 (2025): 188-206, DOI: 10.25072/jwy.v9i2.4693

Abstract

This article examines the statutory limits of lex favor reo in relation to suspended sentences and fine-default imprisonment during Indonesia's criminal-law transition. Using normative legal research with statutory and conceptual approaches, it compares the former Criminal Code with Law No. 1 of 2023 as amended by Law No. 1 of 2026. The analysis finds that Article 3(4) terminates execution of a final sentence following decriminalization, whereas Article 3(7) permits adjustment only where the imposed sentence exceeds the new statutory maximum, including a change in the prescribed type of sanction. A suspended custodial sentence does not automatically become supervision. Under the amended Articles 81–83, unpaid fines are subject to the prescribed payment and asset-enforcement sequence before default imprisonment, with later payment reducing its duration. Accordingly, the principle does not confer an unrestricted power to reopen final judgments or substitute sanctions solely because another disposition appears more favorable.

Keywords: *Criminal Judgment; Fine-Default Imprisonment; Lex Favor Reo; Suspended Sentence; Transitional Criminal Law*

A. INTRODUCTION

The entry into force of the National Criminal Code on 2 January 2026 altered the structure of Indonesia's sentencing system without rendering earlier judgments legally irrelevant. Article 64 of Law No. 1 of 2023 classifies principal punishments, while Articles 75–77 regulate supervision as a distinct sanction and Article 85 provides for community service within specified conditions. The supervision regime, particularly Article 76, was subsequently revised by Law No. 1 of 2026. The reform therefore concerns not merely the vocabulary of punishment but the legal conditions under which a custodial or non-custodial sanction may

be imposed and executed. Earlier scholarship has discussed the more rehabilitative direction of the new Code, yet that policy orientation cannot itself authorize modification of a sentence imposed under the former Code.[1]

The central transitional question arises when an offence predates 2 January 2026 but its prosecution or execution intersects with the new regime. For proceedings still pending, Article 618 of Law No. 1 of 2023 directs application of the new Code unless the earlier provision is more favorable, consistently with Article 3(1). Where conduct is decriminalized, Article 3(2) requires pending proceedings to cease; where conviction is already final, Article 3(4) instead eliminates execution of the sentence. A different and narrower rule governs a final sentence exceeding a later, more lenient statutory maximum under Article 3(7). [2] These provisions must not be conflated with reopening every judgment or reducing punishment merely because a new sentencing option is available. Studies of the transition identify concerns about finality and implementation, but the decisive limits must be derived from the statutory text.[3]

Suspended sentencing under Articles 14a–14f of the former Criminal Code provides the first relevant configuration.[4] The court imposed a sentence but ordered that it would not be executed if the convicted person complied with general and, where applicable, special conditions during the probationary period. The sentence therefore remained legally effective, and breach could activate its execution. Scholarly discussion links this mechanism to the avoidance of short

[1] Safaruddin Harefa, Sri Ismawati, and Mega Fitri Hertini, 'Transformasi Kebijakan Pemidanaan Dalam Kuhp Nasional: Menuju Sistem Pemidanaan Yang Berkeadilan Dan Humanis', *Simbur Cahaya*, 31 December 2025, 283–306, https://doi.org/10.28946/sc.v32i2.5050, p. 283.

[2] Muhammad Idris Nasution, Muhammad Ali, and Fauziah Lubis, 'Pembaruan Sistem Pemidanaan Di Indonesia: Kajian Literatur Atas KUHP Baru', *Judge : Jurnal Hukum* 5, no. 01 (February 2024), 16–23, https://journal.cattleyadf.org/index.php/Judge/article/view/507, p. 16.

[3] Melisa B. Daud, 'Penerapan Asas Lex Favor Reo Terhadap Putusan Berkekuatan Hukum Tetap: (Kajian Atas Kontroversi Pasal 3 Ayat (7) KUHP Nasional)', *Al-Zayn : Jurnal Ilmu Sosial & Hukum* 4, no. 2 (March 2026), 551–63, https://doi.org/10.61104/alz.v4i2.4333, p. 551.

[4] Alfret and Mardian Putra Frans, 'Ketentuan Asas Lex Favor Reo dalam KUHP Nasional terhadap Putusan yang Telah Berkekuatan Hukum Tetap', *Refleksi Hukum: Jurnal Ilmu Hukum* 8, no. 1 (2023), 75–92, https://doi.org/10.24246/jrh.2023.v8.i1.p75-92, p. 75.

custodial terms and to rehabilitation in the community.[5] By contrast, supervision under Articles 75–77 of the National Criminal Code is a principal sanction with its own eligibility rules, conditions, supervision arrangements, and consequences of breach. Their similar corrective aims do not make the two forms interchangeable for transitional adjustment.

A second configuration concerns imprisonment imposed in default of payment of a fine, which must be distinguished from the fine itself.[6] Under Articles 30–31 of the former Criminal Code, non-payment could lead to substitute confinement, subject to provisions on payment and reduction. The new Code retains the fine as a principal sanction but prescribes a different enforcement sequence. Article 81 allows a payment period and installments, followed, where necessary, by seizure and auction of assets or income. Articles 82–83, as amended by Law No. 1 of 2026, then regulate imprisonment in default and the proportional effect of subsequent payment. Earlier literature on fine enforcement remains relevant as background, but it cannot displace this operative statutory formulation.[7]

These arrangements raise two distinct transitional problems, rather than a presumed conflict within a single judgment. In the first, a pre-2026 suspended custodial term is compared with the new supervision regime; the issue is whether any statute authorizes alteration of an already final order.[8] In the second, a pre-2026 fine and its default term are assessed against the new limits and payment mechanism; the original financial obligation remains

[5] Sapto Handoyo D.P., 'Pelaksanaan Pidana Bersyarat dalam Sistem Pemidanaan di Indonesia', *PALAR | PAKUAN LAW REVIEW* 4, no. 1 (January 2018), https://doi.org/10.33751/palar.v4i1.782, p. 24.

[6] Nuryanto D. Nusa, Nurwita Ismail, and Robby W. Amu, 'Penjatuhan Putusan Pidana Bersyarat Dalam Mencapai Tujuan Pemidanaan Dalam Sistem Peradilan Pidana (Studi Di Pengadilan Negeri Marisa)', *Terang : Jurnal Kajian Ilmu Sosial, Politik Dan Hukum* 1, no. 2 (May 2024), 247–65, https://doi.org/10.62383/terang.v1i2.234, p. 247.

[7] Indung Wijayanto, 'Kebijakan Pidana Denda di KUHP dalam Sistem Pemidanaan Indonesia', *Pandecta Research Law Journal* 10, no. 2 (2015), 248–257, https://doi.org/10.15294/pandecta.v10i2.4956, p. 248.

[8] Mulia Agung Pradipta and Pujiyono Pujiyono, 'Reformulasi Pidana Pengganti Denda Undang-Undang Nomor 8 Tahun 2010 tentang Tindak Pidana Pencucian Uang', *Jurnal Pembangunan Hukum Indonesia* 1, no. 1 (January 2019), 1–17, https://doi.org/10.14710/jphi.v1i1.1-17, p. 1.

separate from the default sanction. A judgment might contain both sanctions, but no such combined case is examined here. The legal problem is accordingly one of permissible adjustment under specified statutory conditions, not an established conflict arising from an unidentified case. The normative policy favoring supervision cannot substitute for an express legal basis.[9]

Lex favor reo operates within, rather than outside, the principle of legality. Article 3(1) identifies the governing rule for subsequent changes in criminal legislation, while Articles 3(4) and 3(7) distinguish two consequences after a judgment becomes final. The former abolishes execution where the conduct has ceased to be criminal; the latter adjusts execution to the new sentencing limit when the imposed punishment exceeds it. Significantly, the explanation of Article 3(7), as restated in Article VII of Law No. 1 of 2026, expressly confines this adjustment to sentences heavier than the new maximum, including changes in the statutory type of sanction. Thus the principle protects the convicted person without creating a general discretion to replace one lawful sentence with another. The rights-based account of lex favor reo must be interpreted through those limits.[10]

The research problem is not a complete absence of transitional rules but the proper interpretation of their boundaries. Normatively, Article 3(7) specifies an excess-over-maximum threshold, while Article 76, as amended, governs who may receive supervision and Articles 81–83 establish the current fine-enforcement sequence. In practice, a suspended sentence and a fine-default term may appear functionally comparable to newer forms of punishment, yet functional resemblance alone does not satisfy that statutory threshold. The unresolved interpretive issue is whether the new statutory

[9] Gina Sabrina and Fazal Akmal Musyarri, 'Urgensi Penerapan Pidana Pengawasan dalam Undang-Undang Nomor 1 Tahun 2023 tentang KUHP', *Jurnal Yudisial* 16, no. 1 (December 2023), 65–82, https://doi.org/10.29123/jy.v16i1.586, p. 65.

[10] Khibran Nadhir and Hery Firmansyah, 'Perlindungan Hak Individu Melalui Pendekatan Lex Favor Reo Di Sistem Hukum Pidana', *UNES Law Review* 6, no. 2 (2023), 6626–31, https://doi.org/10.31933/unesrev.v6i2.1523, p. 6626.

maximum or type actually displaces a term imposed under the former Code, and which procedural act is required to implement any authorized adjustment. Claims about inconsistent enforcement remain prospective risks, since this study does not examine execution records or individual judgments.

Previous scholarship supplies different parts of this problem. Alfret and Frans examine lex favor reo in relation to judgments with permanent legal force, whereas Daud focuses specifically on the controversy surrounding Article 3(7).[11] Studies of suspended sentencing principally discuss the rationale and supervision of conditional punishment, while work on fines addresses their enforcement and replacement upon default. The contribution proposed here is more restricted: an ordered statutory inquiry that separates termination of execution after decriminalization, adjustment of a sentence exceeding a new maximum, administration of an unchanged fine, and cases in which no conversion is legally authorized. This approach addresses the intersection of the amended provisions without treating an aggregation of familiar concepts as novelty in itself.

Against this background, the article asks whether, under what statutory conditions, and through which legally authorized process a suspended custodial term or fine-default imprisonment imposed under the former Criminal Code may be adjusted after the judgment becomes final. The inquiry distinguishes the continuing authority of the conviction from the statutory consequences for execution. It further examines whether a change in the maximum or type of prescribed sanction meets Article 3(7), whether decriminalization invokes Article 3(4), and whether the relevant execution provision identifies a competent actor. Its objective is to formulate a limited and reproducible framework that protects

[11] Alfret and Mardian Putra Frans, 'Ketentuan Asas Lex Favor Reo dalam KUHP Nasional terhadap Putusan yang Telah Berkekuatan Hukum Tetap', *Refleksi Hukum: Jurnal Ilmu Hukum* 8, no. 1 (2023), 75–92, https://doi.org/10.24246/jrh.2023.v8.i1.p75-92, p. 75; Melisa B. Daud, 'Penerapan Asas Lex Favor Reo terhadap Putusan Berkekuatan Hukum Tetap', *Al-Zayn: Jurnal Ilmu Sosial & Hukum* 4, no. 2 (2026), 551–63, https://doi.org/10.61104/alz.v4i2.4333, p. 551.

convicted persons without presuming a general power to revise final judgments.

B. RESEARCH METHODS

This study employs prescriptive normative legal research through statutory and conceptual approaches, drawing on legislation and relevant scholarship collected by library and documentary research. Its primary legal materials comprise Articles 14a–14f and 30–31 of the former Criminal Code; Articles 3, 64, 75–77, 81–83, 85, and 618 of Law No. 1 of 2023; and the amendments and official explanations introduced by Article VII of Law No. 1 of 2026. Using grammatical and systematic interpretation, the analysis first determines the date of the offence and whether proceedings are pending or final, then compares the former and current statutory types and maximum limits. It next distinguishes decriminalization under Article 3(4) from the restricted adjustment in Article 3(7), before examining the independent legal characteristics of suspended sentences and fine-default imprisonment, the sequence of fine enforcement, and the legally authorized decision-maker. The study does not test judicial practice or execution records; possible administrative difficulties are treated as normative risks rather than established empirical findings.

C. RESULTS OF RESEARCH AND DISCUSSION

1. Lex Favor Reo and the Statutory Limits of Transitional Adjustment

The transitional operation of lex favor reo depends first on the date of the act and the procedural status of the prosecution. Article 3(1) of Law No. 1 of 2023 applies the subsequent criminal legislation unless the earlier rule is more favorable to the perpetrator; Article 618 likewise addresses proceedings arising before the new Code took effect. These rules govern cases not yet resolved by a final judgment. Where a sentence has become final, a distinct inquiry is required: Article 3(4) concerns decriminalization, whereas Article 3(7), as clarified by Law No. 1 of 2026, concerns a sentence exceeding the new statutory limit. The difference between selecting the law during prosecution and adjusting the execution of a final sentence is therefore a question of statutory authority, not merely sentencing policy.

The principle of legality prohibits the retroactive imposition of a harsher criminal rule, while lex favor reo permits subsequent legislation to benefit a person whose conduct preceded the amendment. Article 3(1) gives concrete form to this relationship by preferring the newer provision unless the former law is more advantageous. The consequence after final judgment is narrower: decriminalization discontinues execution under Article 3(4), but a reduced statutory ceiling permits adjustment only within Article 3(7). The doctrinal account of legality thus supports protection through legally defined consequences rather than an unrestricted reconsideration of punishment.[12]

The recognition of living law in Article 2 of the National Criminal Code has generated questions about the certainty of criminal norms, but it does not itself authorize alteration of final sentences. Its relevance here is limited to the requirement that the legal basis of punishment and subsequent change remain identifiable and predictable.[13] The controlling distinction is instead found in Article 3: pending proceedings cease if the conduct is decriminalized, and execution of a final sentence ceases under paragraph (4). Where criminality remains but a lighter statutory maximum is introduced, paragraph (7) provides a separate, restricted consequence. The argument accordingly turns on the precise legal amendment rather than a general preference for more lenient punishment.

Three forms of legislative change must be distinguished. First, removal of the offence itself extinguishes execution of a final conviction under Article 3(4), without requiring the appellate annulment of the judgment. Second, a reduction in the prescribed maximum permits alignment of a heavier final sentence with the new limit under Article 3(7). Third, a change in the

[12] Johari et al., 'Kedudukan Asas Legalitas Dalam Pembaharuan Hukum Pidana Di Indonesia', *Cendekia : Jurnal Hukum, Sosial Dan Humaniora* 1, no. 1 (January 2023), 65–77, https://doi.org/10.70193/cendekia.v1i1.11, p. 65.

[13] Bahri Yamin and M. Taufik Rachman, 'Problematik Yuridis Pasal 2 KUHP Baru Dalam Perspektif Prinsip-Prinsip Dasar Asas Legalitas', *Unizar Law Review* 8, no. 2 (December 2025), 170–80, https://doi.org/10.36679/ulr.v8i2.106, p. 175.

available type or mode of punishment does not, by itself, authorize substitution: the explanation of Article 3(7) includes a different type of sentencing threat only where the final punishment exceeds the newly applicable limit. Scholarly debate about the meaning of changes in criminal legislation remains relevant to identifying the comparison, but it cannot displace these distinct legal consequences.[14]

The binding force of a final judgment remains the ordinary starting point of criminal execution, yet finality must operate together with the express exceptions created by the legislature. Non-execution without legal authority may weaken legal certainty, as noted in scholarship on enforcement of final judgments.[15] Nevertheless, Article 3(4) itself requires cessation of execution following decriminalization, and Article 3(7) requires alignment with a later, lighter statutory ceiling where its conditions are met. Finality therefore cannot be invoked to enforce a punishment that the later statute expressly requires to be discontinued or adjusted.

The maxim res judicata pro veritate habetur protects the authority of a judgment, rather than making every consequence of its execution immune from later legislation. Legal scholarship on finality and exceptional review supports keeping the final determination of guilt analytically separate from a statutory change to the execution of punishment.[16] Article 3(4) terminates execution because the conduct is no longer criminal, whereas Article 3(7) aligns the sentence with a new maximum. Neither operation is identical to an appellate judgment annulling the original conviction. A

[14] Marco Hardianto, 'Perubahan Undang-Undang oleh Putusan Mahkamah Konstitusi dalam Kacamata Pasal 1 Ayat (2) KUHP', *Indonesia Criminal Law Review* 1, no. 2 (February 2022), https://scholarhub.ui.ac.id/iclr/vol1/iss2/2.

[15] Adib Adib, Sanusi Sanusi, and Gunadi Rasta, 'Analisis Yuridis atas Tidak Dilaksanakannya Putusan Pidana yang Telah Berkekuatan Hukum Tetap dalam Perspektif Kepastian Hukum', *Jurnal Hukum Lex Generalis* 7, no. 10 (2026; published online June 5, 2026), https://doi.org/10.56370/jhlg.v7i10.3722, p. 10.

[16] Ngurah Ketut Widhi Aditya Pinatih, 'Asas Res Judicata Pro Veritate Habetur dalam Peninjauan Kembali terhadap Putusan Lepas dari Segala Tuntutan Hukum oleh Jaksa Penuntut Umum', *Justitia et Pax* 40, no. 1 (June 2024), 135–63, https://doi.org/10.24002/jep.v40i1.8219, p. 139.

court or enforcement authority must therefore identify the specific statutory effect before taking any consequential action.[17]

The exceptions also raise a procedural question. Under amended Article 3(5), the head of the correctional institution must release a prisoner whose final sentence ceases to be executable following decriminalization. By contrast, Article 3(7) states the substantive threshold for adjustment but does not establish a general entitlement to reopen a criminal trial or a freestanding power for an executor to replace the sanction imposed. The Criminal Procedure Code enacted by Law No. 20 of 2025 assigns execution of final judgments to the public prosecutor under Article 342(1). That execution mandate is distinguishable from judicial authority to determine a legally disputed adjustment; where a specific post-finality mechanism is not shown, the present analysis does not presume one.

The comparison between a suspended sentence and supervision illustrates why a favorable legal development is not automatically an adjustment ground. Articles 14a–14f of the former Criminal Code allowed the court to suspend execution of an imposed sentence subject to probationary conditions. By contrast, Articles 75–77 of the National Criminal Code, as amended, establish supervision as an independent principal punishment. Article 75 addresses offences punishable by imprisonment for no more than five years, while Article 76(1) restricts the supervisory term to the specified three-year threshold and requires a first-time offender. Their different eligibility, duration, and consequences of breach prevent a simple conversion of an older suspended judgment into supervision without satisfying Article 3 and identifying an authorized procedure.

Concrete benefit must be tested against an actual legal change, not a presumed preference for a non-

[17] Fathorrahman Fathor and Aan Eko Widiarto, 'Rethinking "Res Judicata Pro Varitate Habetur" in Indonesian Judiciary', *Indonesian Journal of Law and Economics Review* 19, no. 1 (2024), article 995 (published online December 25, 2023), https://doi.org/10.21070/ijler.v19i1.995, p. 7.

custodial outcome. Consider three hypothetical situations. A final four-year custodial sentence for conduct whose new statutory maximum is three years meets the excess-over-maximum criterion in Article 3(7) and calls for adjustment to the statutory limit. A final two-year sentence for the same offence does not meet that criterion merely because supervision has become available. A suspended sentence subject to a one-year probation period cannot be rewritten as a supervision sentence merely by comparing conditions or administrative burdens. In the case of an unpaid fine, the applicable payment, seizure, auction, and default-imprisonment rules must be followed separately. These illustrations distinguish statutory permissibility from an evaluative claim that another sanction might be more proportionate.

Accordingly, lex favor reo is applied through a staged inquiry: determine the temporal rule and finality status; ascertain whether the act remains criminal; compare the imposed punishment with the new statutory maximum and any relevant change in the prescribed type; and determine which execution consequence the law actually authorizes. In relation to a final sentence, Article 3(7) and its explanation restrict adjustment to punishment heavier than the new maximum. Proportionality may guide the interpretation of a permissible adjustment, but it cannot independently authorize a substitution that the statute does not provide. This distinction preserves the protective purpose of lex favor reo without eroding the legal certainty of final judgments.

2. **Adjustment of Suspended Sentences and Fine-Default Imprisonment**

The comparison of suspended sentences and supervision is advanced here as a doctrinal method of evaluating penal consequences, not as a presently operative procedure for converting final sentences. Suspended sentencing under Articles 14a–14f of the former Criminal Code concerns conditional non-execution of a sentence already imposed; supervision under Articles 75–77 of the National Criminal Code is an independent principal punishment. Their functional similarities may illuminate sentencing policy, but Article

3(4) or the restrictive threshold in Article 3(7) must first provide a legal ground for affecting execution. No general provision identified in these enactments authorizes conversion of every final suspended sentence into supervision solely because the latter appears less burdensome.

A suspended sentence must also be distinguished from conditional release or parole. The former is ordered at sentencing under Articles 14a–14f and postpones execution while the convicted person observes the prescribed probationary conditions; conditional release concerns the later stage of serving a custodial term. Scholarship on the former mechanism explains its effort to avoid the disruptive effects of short imprisonment and to foster rehabilitation in society.[18] Nevertheless, non-execution during probation does not extinguish the sentence, and breach may reactivate its enforcement. It follows that any alteration of a final suspended judgment requires a statutory basis beyond the comparable rehabilitative purpose of supervision.

Supervision and execution are institutionally regulated rather than left to informal coordination. Article 342(1) of Law No. 20 of 2025 designates the public prosecutor as executor of a final judgment; Article 349(1) provides for execution of supervision by the prosecutor and guidance by a community supervisor. Articles 353–356 regulate judicial monitoring and expressly extend supervision and observation to conditional sentencing. Separately, Article 76(6) and (7), as amended, permits prosecutorial proposals to a judge concerning breach or reduction of an existing supervision term, with consideration from the community supervisor. None of these provisions, taken alone, confers a general power to replace a final pre-2026 suspended sentence with a new type of punishment.

The statutory eligibility requirements of supervision are materially different from those of

[18] Adul Halim Kaongo, 'Pengawasan Vonis Pidana Bersyarat sebagai Alternatif Pemidanaan', *Dinamika Hukum* 13, no. 3 (2022), 1–25, https://ejurnal.unisri.ac.id/index.php/Dinamika_Hukum/article/view/8455, p. 7.

suspended sentencing. Article 75 concerns offences threatened with imprisonment of no more than five years; amended Article 76(1) restricts the sentence of supervision to the specified period of no more than three years and to first-time offenders. Article 76(2) and (3) prescribes general and possible special conditions, while paragraphs (4)–(8) and Article 77 regulate violations and the respective roles of prosecutors and judges. Academic discussion of the rehabilitative design of supervision remains pertinent to its purpose, but does not relax these statutory requirements.[19] A functional comparison must therefore assess eligibility, sentence duration, conditions, breach consequences, and legal competence before drawing any transitional conclusion.

A more favorable configuration is not necessarily a legally permissible replacement. For a final suspended custodial sentence, decriminalization terminates execution under Article 3(4); a reduction of the statutory maximum may justify the limited adjustment in Article 3(7) only if the imposed term exceeds the new threshold. By contrast, where the earlier sentence remains within the new maximum, its conversion into supervision cannot rest solely on a shorter supervisory period or a less restrictive rehabilitative program. Broader considerations of reintegration are legitimate policy reasons for prospective legislation, but not substitutes for the current transitional rule or an identified competent decision-maker.[20]

Community service illustrates the same distinction between sentencing policy and the law currently in force. As an independent principal sanction, it is regulated under Article 85 of the National Criminal Code, and scholarship has discussed its potential to reduce reliance on short-term

[19] Desak Kadek Era Dewi Susanti, Ni Putu Rai Yuliartini, and Dewa Gede Sudika Mangku, 'Pidana Pengawasan Sebagai Pidana Pokok Dalam Perspektif KUHP Nasional', *Mahkamah : Jurnal Riset Ilmu Hukum* 3, no. 2 (April 2026), 24–35, https://doi.org/10.62383/mahkamah.v3i2.1583, p. 24.

[20] Husni Mubarok and Yeni Yulianti, 'Peluang Dan Tantangan Era Baru Sistem Pemidanaan Indonesia', *Restorative : Journal of Indonesian Probation and Parole System* 1, no. 1 (September 2023), 46–54, https://doi.org/10.61682/restorative.v1i1.6, p. 46.

imprisonment.[21] The original 2023 text of Article 82 also referred to non-custodial alternatives in the enforcement of unpaid fines. Article VII point 10 of Law No. 1 of 2026 replaced that provision: amended Article 82 now prescribes imprisonment where seizure and auction are insufficient or impossible. Accordingly, community service may be discussed as a possible future reform of fine enforcement, but not as a presently authorized substitute under the amended Article 82.[22]

The enforcement of an unpaid fine follows a distinct legal sequence. Article 81 of the National Criminal Code establishes payment and, where necessary, seizure and auction of the convicted person's assets or income. These measures must be read with Articles 345 and 346 of Law No. 20 of 2025, which regulate payment periods, installment applications, judicial authorization for seizure, auction, and the prosecutor's application of the prescribed substitute penalty. Under Article VII point 10 of Law No. 1 of 2026, amended Article 82 replaces the unpaid fine with imprisonment when asset enforcement proves insufficient or impossible; the substitute term ranges from one day to two years and is determined by the judge according to Annex III. Comparative policy discussions concerning special-law fines are informative but do not override this general statutory framework.[23]

Article 83, as amended, also permits the convicted person to pay the outstanding fine during default imprisonment, and requires the payment to reduce the term proportionally by reference to Article 82(3). Article 82(4) separately credits

[21] Ahmad Fikri, Usman Usman, and Nys Arfa, 'Pidana Kerja Sosial Sebagai Pidana Pokok Dalam Undang-Undang Nomor 1 Tahun 2023 Tentang Kitab Undang-Undang Hukum Pidana : (Studi Komparatif Antara Indonesia Dan Belanda)', *PAMPAS: Journal of Criminal Law* 6, no. 3 (November 2025), 387–404, https://doi.org/10.22437/pampas.v6i3.48426, p. 387.

[22] Emaliawati Emaliawati, Bonarsius Saragih, and Aji Mulyana, 'Effectiveness of Social Work Sanction as a Substitute for Imprisonment in The Perspective of Sentencing Purposes', *Jurnal Penelitian Hukum De Jure* 22, no. 3 (September 2022), 325–36, https://doi.org/10.30641/dejure.2022.V22.325-336, p. 325.

[23] Idris Wasahua et al., 'Pembaharuan Kebijakan Formulasi Pelaksanaan Pidana Denda dan Pidana Tambahan Pembayaran Ganti Kerugian dalam Undang-Undang Perlidungan Data Pribadi', *Jurnal Hukum Lex Generalis* 6, no. 12 (2025; published online February 20, 2026), https://doi.org/10.56370/jhlg.v6i12.3064, p. 1.

qualifying prior detention against the default term. These express execution rules must not be confused with Article 3(7): partial payment alters the execution of a fine-default term under the current fine regime, whereas transitional adjustment of a final sentence depends on the new statutory limit actually being lower than the punishment imposed. Neither the prosecutor's execution function nor a general appeal to proportionality creates discretion to choose supervision or community service instead of the imprisonment now specified by Article 82.

A legally defensible adjustment model requires a sequence of questions rather than a discretionary list of desirable considerations. The first concerns temporal applicability: identify the date of the offence, any later legislative change, and whether the proceedings are pending or final. The second identifies which provision applies—Article 3(1) and Article 618 for the favorable law in unresolved proceedings, Article 3(4) for decriminalization after finality, or Article 3(7) for a final sentence exceeding a newer statutory maximum. The third compares the offence, type of threatened punishment, actual sentence, and new maximum. Without proof of the relevant statutory threshold, functional resemblance between sanctions cannot justify an alteration of execution.

The next stage determines the legal effect and its procedural route. Where decriminalization is established, Article 3(4) requires cessation of execution and Article 3(5) provides for release in the specified custodial situation. Where a final sentence exceeds the later statutory maximum, Article 3(7) calls for alignment with that limit, including a relevant change in the type of statutory threat as explained by Law No. 1 of 2026. Otherwise the final judgment remains executable according to law. In particular, an unpaid fine proceeds through Articles 81–83 and the Criminal Procedure Code's Articles 345–346; a final suspended sentence cannot be converted merely on policy grounds. This ordering distinguishes entitlement to statutory relief from the authority and procedure necessary to implement it.

Competence must be determined under the applicable procedural law. Article 342(1) of Law No. 20 of 2025 assigns execution of final judgments to the public prosecutor. Articles 345–346 address fine payment, installment applications, seizure subject to permission from the head of the district court, auction, and the prescribed fine-default process. Article 349 provides for prosecutorial execution and community supervision of supervision sentences; Articles 353–356 establish the supervising and observing judges' functions. The judicial determination of the fine-default term under amended Article 82(3) and judicial responses to breaches under Article 76 concern expressly regulated decisions. They do not independently confer a general post-finality power to redesign an older sentence. Any disputed adjustment under Article 3(7) therefore requires identification of a legally competent process rather than an assumed power of the executor.[24]

Two concrete limits emerge from this comparison. A final suspended sentence may be affected by Article 3(4) if its underlying conduct is decriminalized, or by Article 3(7) only when the punishment actually imposed exceeds the subsequent statutory ceiling; supervision is not an automatic replacement. An unpaid fine, by contrast, remains subject to the statutory enforcement sequence and, if assets cannot satisfy it, to imprisonment in default under amended Article 82, with proportional reduction upon payment under Article 83. Any separate change to a final sentence must independently satisfy Article 3(7). These rules delimit the present law without assuming that the proposed institutional comparison itself operates as an adjustment procedure.

The doctrinal contribution of the proposed framework lies in distinguishing four legally different outcomes: cessation of execution after decriminalization, limited adjustment of a sentence exceeding a new maximum,

[24] Jody Imam Rafsanjani, Rizki Bagus Prasetio, and Zaihan Harmaen Anggayudha, 'Eksistensi Pidana Kerja Sosial dalam Perspektif Hukum Progresif', *Jurnal Penelitian Hukum De Jure* 23, no. 2 (June 2023), 219–30, https://doi.org/10.30641/dejure.2023.V23.219-230, p. 219.

ordinary execution of a fine including default imprisonment and payment-based reduction, and absence of conversion authority where neither statutory threshold is met. Suggestions that supervision or community service should replace fine-default imprisonment are therefore de lege ferenda recommendations, not descriptions of the law presently applied under the amended Article 82. The separation of positive law from possible reform permits lex favor reo to protect the convicted person without converting it into an unrestricted dispensing power.

D. CONCLUSION

Lex favor reo protects defendants and convicted persons during criminal-law transition through distinct statutory consequences. Article 3(1) of Law No. 1 of 2023 governs successive provisions while proceedings remain unresolved, whereas Article 3(4) requires cessation of execution when the conduct is decriminalized after a judgment becomes final. Article 3(7), read with its explanation in Law No. 1 of 2026, permits adjustment only where the final sentence exceeds a newer statutory maximum, including a relevant change in the prescribed type of punishment. Consequently, an earlier suspended sentence is not automatically converted into supervision under amended Article 76. Unpaid fines instead remain subject to Articles 81–83, read with Articles 345–346 of the Criminal Procedure Code, including asset enforcement, imprisonment in default, and proportional reduction upon later payment. The study proposes a staged test separating the substantive adjustment threshold from institutional competence; any broader non-custodial substitution is a recommendation for future legislation, not current law. The conclusions remain normative and require evaluation against subsequent judicial and execution practice.

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