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Regulations Governing Criminal Provisions in the Substance of Local Regulations Following the Entry into Force of Law No. 1 of 2026 on Criminal Adjustments

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ABSTRACT

Criminal provisions are one of the permitted subjects of local regulations. In principle, such provisions are limited to imprisonment for a maximum of 6 (six) months or a fine of up to Rp50,000,000.00 (fifty million rupiah). However, following the enactment of Law No. 1 of 2026, the regulations regarding criminal provisions in the content of Regional Regulations have undergone changes. Therefore, this study aims to analyze the historical development of regulations concerning criminal provisions in the content of Regional Regulations, along with their evolution and adjustments to Regional Regulations following the enactment of Law No. 1 of 2026. This study is a legal study employing a legislative and conceptual approach. The results of this study indicate that the provisions regarding criminal penalties in the substance of local regulations, as set forth in Article 15 of Law No. 12 of 2011 and Article 238 paragraph (2) of Law No. 23 of 2014 in conjunction with Article 5 paragraph (2) of Minister of Home Affairs Regulation No. 80 of 2015 are limited to imprisonment for a maximum of 6 (six) months or a fine of up to Rp50,000,000.00 (fifty million rupiah). However, following the enactment of Law No. 1 of 2026, the criminal provisions that may be included in the substance of a Regional Regulation are limited to fines of Category III, namely up to Rp50,000,000.00 (fifty million rupiah). Regional Regulations may no longer contain criminal provisions in the form of imprisonment. Consequently, Local Regulations that still contain provisions for imprisonment must be repealed, and those that still contain fines exceeding Category II that is, up to Rp10,000,000.00 (ten million rupiah) must be amended to a maximum of Category III.

Keywords: Criminal Provisions, Local Regulation, Law No. 1 of 2026

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Introduction

Article 18, paragraph (6) of the 1945 Constitution of the Republic of Indonesia (hereinafter referred to as the 1945 Constitution) provides a constitutional basis for regions to enact local regulations as legal instruments in the administration of regional government (Sukardi & Wardana, 2024: 268). This provision affirms that local governments have the right to enact local regulations and other regulations to implement regional autonomy and assist in the fulfillment of national duties (Hadi et al., 2025: 1596). Thus, local regulations are a manifestation of the principle of decentralization recognized and guaranteed by the constitution, while also serving as a means for local governments to regulate the interests of the local community in accordance with the characteristics and needs of their region (Alqarni et al., 2022: 188; Baidhowah, 2022: 105; Prayoga & Ananda, 2023: 139).

The reinforcement of the constitutional basis for the enactment of local regulations is further reflected in the provisions of Article 14 of Law No. 12 of 2011 on the Enactment of Legislation (hereinafter referred to as Law No. 12 of 2011) and Article 236 paragraph (3) of Law No. 23 of 2014 on Regional Government (hereinafter referred to as Law No. 23 of 2014) in conjunction with Article 4 paragraph (2) of the Minister of Home Affairs Regulation No. 80 of 2015 on the Formulation of Regional Legal Instruments (hereinafter referred to as Minister of Home Affairs Regulation No. 80 of 2015) (Sedubun, 2020: 12-13). These provisions affirm that to implement regional autonomy and assistive duties, regions have the authority to enact Regional Regulations (Mu'ammam & Diamantina, 2025: 5015; Suparto, 2021: 57). Thus, these provisions serve as a more operational normative basis for the exercise of the authority to enact Regional Regulations by the Regional People's Representative Council (DPRD) with the joint approval of the Regional Head (Rahmat, 2025: 49).

As part of Indonesia's legal system, regional regulations are also subject to certain limitations regarding their content. One type of content permitted in Regional Regulations, as stipulated in Article 15 of Law No. 12 of 2011 and Article 238 of Law No. 23 of 2014 in conjunction with Article 5 paragraph (2) of Minister of Home Affairs Regulation No. 80 of 2015, is the regulation of criminal provisions (Indaryanto, 2022: 31). The inclusion of criminal provisions in Regional Regulations is intended as a law enforcement instrument against the

norms regulated in Regional Regulations (Rikardo et al., 2024: 163). With the threat of criminal sanctions, it is hoped that the public will have a higher level of compliance with the provisions established by the local government (Hadi, 2024: 204).

The criminal penalties referred to in the preceding paragraph are limited to imprisonment for a maximum of 6 (six) months or a fine of up to Rp50,000,000.00 (fifty million rupiah) (Alfa et al., 2024: 1311). Beyond that, the Regional Regulation may not contain any other criminal penalties. However, the law continues to evolve alongside societal developments. Criminal law, which originally focused on legal certainty by providing a deterrent effect, has now shifted its paradigm to become more humanistic by prioritizing the principle of restorative justice (Palimai et al., 2026: 33). This shift in the criminal law paradigm is accompanied by a shift in the regulation of criminal provisions within the content of Local Regulations (Harefa et al., 2025: 286; Hiariej, 2024: 50; Rifaid et al., 2025: 695).

Following the enactment of Law No. 1 of 2026 on Criminal Law Adjustments (hereinafter referred to as Law No. 1 of 2026), the provisions regarding criminal penalties in the substance of local regulations have changed. For Regional Regulations that are currently still in force, amendments must be made by aligning them with Articles IV and V of Law No. 1 of 2026 in conjunction with Article 79 of Law No. 1 of 2023 on the Criminal Code. Likewise, draft Regional Regulations that are still in the drafting stage must be aligned with these two laws. If they are not promptly adjusted, there is a risk that the provisions of such Regional Regulations could be annulled by the Supreme Court through a judicial review petition (Desyanti et al., 2021: 301; Risnain, 2021: 510). The following are some examples of district and municipal regulations in East Java Province that have not yet been amended to comply with Law No. 1 of 2026:

Table 1. Local Regulations in East Java Province That Have Not Yet Aligned Their Criminal Provisions with Law No. 1 of 2026

No.	Local Regulation	Text of the Article
1.	Surabaya City Regulation No. 4 of 2024 on the Transfer of Infrastructure, Facilities, and Utilities in Industrial, Commercial, Residential, and Settlement Areas	Article 28 (1) In addition to being subject to the administrative sanctions referred to in Article 26, any person or business entity/legal entity that violates the provisions of Article 4(1), Article 4(4), Article 5(3), Article 5(4), Article 7(1), Article 7(2), Article 7(3), Article 8(2), Article 8(4), Article 9(1), Article 9(2), Article 10(2), Article 10(3), Article 10

No.	Local Regulation	Text of the Article
		paragraph (4), Article 15 paragraph (1), Article 15 paragraph (3) and/or Article 22 paragraph (5), shall be punishable by imprisonment for a maximum of 3 (three) months or a fine of up to Rp 50,000,000.00 (fifty million rupiah).
2.	Sidoarjo Regency Regulation No. 4 of 2022 on the Preservation of Cultural Heritage Sites	Article 76 Any person who fails to fulfill the obligations referred to in Article 30, Article 34(2), and Article 36 shall be punished by imprisonment for a maximum of 6 (six) months and/or a fine of up to Rp.50,000,000 (fifty million rupiah).
3.	Gresik Regency Regulation No. 7 of 2015 on the Protection of Sustainable Food Cropland	Article 51 (1) In addition to being subject to sanctions, any individual who converts sustainable food agricultural land or sustainable food land reserves as referred to in Article 19(2) shall be punished by imprisonment for a maximum of 5 (five) years and a fine of up to Rp. 1 billion (one billion rupiah). (2) In the event that the act referred to in paragraph (1) is committed by a government official, the penalty shall be increased by one-third (1/3) of the prescribed penalty. Article 52 (1) (1) In the event that a criminal offense as referred to in Article 19(2) is committed by a corporation, its officers shall be punished by imprisonment for a minimum of 2 (two) years and a maximum of 7 (seven) years and a fine of no less than Rp. 2 billion (two billion) and no more than Rp. 7 billion (seven billion). (2) In addition to the fine referred to in paragraph (1), the corporation may be subject to the following penalties: a. Confiscation of assets derived from the criminal offense; b. Termination of contracts with the government; c. Dismissal of officers; and/or

No.	Local Regulation	Text of the Article
		d. Prohibition on officers from establishing a corporation in the same business sector.
		(3) In the event that the acts as regulated in this chapter result in losses, the penalty imposed may be supplemented by payment of damages.
		Article 53 Any government official authorized to issue permits for the conversion of sustainable food agricultural land and sustainable agricultural reserve land who fails to comply with the provisions set forth in Article 19(2) shall be punished by imprisonment for a minimum of 1 (one) year and a maximum of 5 (five) years and/or a fine of no less than Rp. 1 billion (one billion rupiah) and a maximum of Rp. 5 billion (five billion rupiah).

Source: Compiled by the author

Looking at the table above, in practice, local governments still contain several provisions regulating imprisonment. Meanwhile, Law No. 1 of 2026 explicitly states that local regulations may no longer include provisions regarding imprisonment. In fact, as shown in the table above, there are Regional Regulations that stipulate fines exceeding the limits set forth in Article 15(2) of Law No. 12 of 2011 in conjunction with Article 238 of Law No. 23 of 2014, namely a maximum fine of Rp50,000,000.00 (fifty million rupiah). Given the issues arising in practice in several regions as described above, this study aims to examine and analyze, as well as provide recommendations regarding several Regional Regulations in the Regencies/Cities of East Java Province by aligning them with Law No. 1 of 2026. Specifically, this pertains to the provisions regarding criminal penalties in Regional Regulations. This practice stems from two factors: the failure to amend Law No. 1 of 2026 and weak oversight, which has led to regulations that exceed the limits

This study possesses a high degree of novelty and originality. This is because research on the adjustment of criminal provisions following the enactment of Law No. 1 of 2026 has never been conducted in the form of a scientific article. Similar studies previously conducted by researchers include one by Neisa Angrum Adisti et al., titled “Drafting Amendments to Criminal Provisions in Regional Regulations Following the Enactment of Law No. 1 of 2023 on the Criminal Code” (Adisti et al., 2024: 1). That study examined the provisions of criminal

penalties in local regulations following the enactment of Law No. 1 of 2023, whereas this study aims to examine, analyze, and provide recommendations regarding several district and municipal local regulations in East Java Province in accordance with Law No. 1 of 2026.

Another study was previously conducted by Suharyo titled “The Formulation of Local Regulations and the Application of Criminal Sanctions, and Their Challenges” (Suharyo, 2015: 1). The study examined the presence of criminal penalties of imprisonment in the provisions of local regulations, which the author considers to be provisions that should be avoided; meanwhile, this study aims to align the criminal provisions in local regulations by referring to Law No. 1 of 2026 in conjunction with Law No. 1 of 2023.

Finally, a similar study was also conducted by Novendri M. Nggilu titled “A Legal Review of the Regulation of Criminal Sanctions in the Regional Regulation of Gorontalo Province” (Nggilu, 2020: 1). This study examines the provisions on criminal sanctions in the Gorontalo Provincial Regulation, with reference to Law No. 12 of 2011, Law No. 23 of 2014, and Ministry of Home Affairs Regulation No. 80 of 2015, while all provisions regarding criminal sanctions in those regulations have been amended by Law No. 1 of 2026; thus, this study aims to examine and analyze the adjustment of criminal provisions in the content of the Regional Regulation based on Law No. 1 of 2026. Given this description, this study differs from previous studies, thereby possessing a sufficiently high degree of novelty and originality.

Research Methods

This research is legal research using at least 2 (two) approaches, namely the statute approach and conceptual approach (Marzuki, 2021: 47). These research methods and approaches were chosen because this study examines legal norms from a normative perspective, making legal research the appropriate method. The legal materials used in this study are primary legal materials and secondary legal materials. The legal materials referred to consist of the following: the 1945 Constitution of the Republic of Indonesia; Law No. 12 of 2011 on the Formation of Legislative Regulations; Law No. 23 of 2014 on Regional Government; Law No. 1 of 2023 on the Criminal Code; Law No. 1 of 2026 on Criminal Adjustments; and Regulation of the Minister of Home Affairs No. 80 of 2015 on the Formation of Regional Legal Instruments. Secondary legal materials consist of legal journals and books. Primary legal materials are collected using the inventory and categorization method, while secondary legal materials are collected using the literature search method. The primary legal materials and secondary legal materials that have been collected are then identified, classified,

and systematized according to their sources and hierarchies. After that, all legal materials are reviewed and analyzed using legal reasoning with the deductive method.

Results and Discussion

A. Criminal Provisions in the Content of Local Regulations: Historical and Contemporary Developments

A local regulation (Perda) is a type of legislation in Indonesia as stipulated in Article 7(1) of Law No. 12 of 2011. Under this provision, local regulations are positioned as part of the national legal system and are binding after the 1945 Constitution of the Republic of Indonesia, laws, government regulations in lieu of laws, government regulations, and presidential regulations. Local regulations serve to regulate the implementation of regional autonomy and assistance tasks, thereby allowing policies to be tailored to the needs and characteristics of each region. Therefore, although they occupy a lower position in the hierarchy, local regulations still play a strategic role in supporting the implementation of regional governance and national development.

One way to enforce the substantive provisions of a local regulation is by including criminal penalties within it. The inclusion of criminal provisions in the substance of a Regional Regulation is permitted, as referenced in Article 14 of Law No. 12 of 2011 and Article 236 paragraph (3) of Law No. 23 of 2014 *junctis* Article 4 paragraph (2) of Minister of Home Affairs Regulation No. 80 of 2015 (Hakim & Marisa, 2021: 9; Putri et al., 2026: 961). Nevertheless, the inclusion of criminal provisions in the substance of a Regional Regulation must not be arbitrary but must comply with the limitations set forth in applicable laws and regulations. These limitations continue to evolve; some laws and regulations governing criminal provisions in the substance of Regional Regulations are as follows:

1. Article 15 paragraph (2) of Law No. 12 of 2011

Prior to the enactment of Law No. 12 of 2011, the legal framework governing the formulation of legislation was set forth in Law No. 10 of 2004 on the Formulation of Legislation, as subsequently repealed by Law No. 12 of 2011 (hereinafter referred to as Law No. 10 of 2004). Article 14 of Law No. 10 of 2004 states that “*Provisions regarding criminal penalties may only be included in laws and regional regulations*”. However, Law No. 10 of 2004 does not specify in detail what types of criminal provisions may be included in local

regulations; consequently, local governments have the discretion to determine which criminal provisions to include in their local regulations.

Unlike Article 14 of Law No. 10 of 2004, Article 15 of Law No. 12 of 2011 provides detailed provisions regarding criminal provisions in local regulations. Article 15 paragraph (1) of Law No. 12 of 2011 states that “*Provisions regarding criminal sanctions may only be included in: a. Laws; b. Provincial Regional Regulations; or c. Regency/Municipal Regional Regulations*”. Furthermore, Article 15 paragraph (2) of Law No. 12 of 2011 states that “*The criminal provisions referred to in paragraph (1)(b) and (c) consist of a penalty of imprisonment for a maximum of 6 (six) months or a fine of up to Rp50,000,000.00 (fifty million rupiah)*”. Next, Article 15 paragraph (3) of Law No. 12 of 2011 states that “*Provincial Regional Regulations and Regency/Municipal Regional Regulations may include penalties of imprisonment or fines other than those referred to in paragraph (2) in accordance with the provisions of other laws and regulations*”. The differences in the provisions of Article 14 of Law No. 10 of 2004 and Article 15 of Law No. 12 of 2011 can be seen in the table below:

Table 2. Differences in Provisions Regarding Criminal Penalties Between Law No. 10 of 2004 and Law No. 12 of 2011

No.	Law	Text of the Article	Weakness
1.	Section 14 of Law No. 10 of 2014	<i>Provisions regarding criminal penalties may only be included in laws and local regulations</i>	It does not impose strict requirements regarding the specific types of criminal provisions that may be included in the content of a local regulation
2.	Section 15 of Law No. 12 of 2011	(1) <i>Provisions regarding criminal penalties may only be included in:</i> <i>a. Laws;</i> <i>b. Provincial Regulations; or</i> <i>c. Regency/Municipal Regulations.</i> (2) <i>The criminal provisions referred to in paragraph (1) letter (b) and (c) consist of imprisonment for a maximum of 6 (six) months or a fine of up to Rp50,000,000.00 (fifty million rupiah).</i>	-

(3) *Provincial Regulations and Regency/Municipal Regulations may include penalties of imprisonment or fines other than those referred to in paragraph (2) in accordance with the provisions of other laws and regulations.*

Source: Compiled by the author

Upon examining the provisions of Article 15 paragraph (2) of Law No. 12 of 2011 cited above, it is clear that there is legal certainty regarding the criminal penalties that may be included in a Local Regulation, namely imprisonment for a maximum of 6 (six) months or a fine of up to Rp50,000,000.00 (fifty million rupiah). Beyond these criminal penalties, a Regional Regulation may not include provisions regarding other types of criminal penalties within its content. Although such limits have been established, it cannot be denied that in practice, there are Regional Regulations that contain criminal penalties exceeding these limits. As shown in Table 1 above, these fines can exceed Rp50,000,000.00 (fifty million rupiah). Given this, it is appropriate to ensure alignment with higher-level legislation during the drafting of Local Regulations. Thus, their validity is not compromised in practice.

2. Article 238 paragraph (2) of Law No. 23 of 2014

Provisions regarding criminal penalties in the substance of local regulations, as set forth in the law on regional government, were first established in Law No. 32 of 2004 on Regional Government, as subsequently repealed by Law No. 23 of 2014 (hereinafter referred to as Law No. 32 of 2004) (Huda, 2016: 34). Article 143(2) of Law No. 32 of 2004 states that “*A local regulation may provide for a maximum penalty of 6 (six) months’ imprisonment or a fine of up to Rp50,000,000.00 (fifty million rupiah)*” (AR, 2018: 649). The wording of this provision indicates that the gaps in the provisions of Article 14 of Law No. 10 of 2004 have been addressed by Article 143(2) of Law No. 32 of 2004. Consequently, in practice, local governments have, since 2004, established clear limits on the criminal provisions contained in the substance of local regulations, namely that they may be punishable by imprisonment for a maximum of 6 (six) months or a fine of up to Rp50,000,000.00 (fifty million rupiah).

Law No. 32 of 2004 has become irrelevant in the practice of local government; therefore, one effort to adapt to current circumstances is to revise Law No. 32 of 2004 by repealing it through Law No. 23 of 2014. The implementation of Law No. 23 of 2014 in local practice has at least brought about progress and greater certainty compared to the past. Upon examining the

provisions of Law No. 23 of 2014, one article in the law continues to strictly regulate criminal penalties regarding the content of local regulations. Article 238(2) of Law No. 23 of 2014 explicitly states that “*A Regional Regulation may include a penalty of imprisonment for a maximum of 6 (six) months or a fine of up to Rp50,000,000.00 (fifty million rupiah)*”.

Upon examining the wording of Article 143(2) of Law No. 32 of 2004 and Article 238(2) of Law No. 23 of 2014, there appears to be no difference whatsoever. Both provisions regulate the inclusion of criminal provisions in the content of local regulations, and both strictly specify the types of criminal provisions that may be included in such regulations. Thus, it can be said that the provisions regarding criminal provisions in the content of local regulations under Law No. 23 of 2014 provide legal clarity and certainty for local governments.

3. Article 615 of Law No. 1 of 2023

Law No. 1 of 2023 marks a significant milestone as a testament to the Indonesian nation's efforts to build a sovereign criminal justice system rooted in national values. Unlike the old Criminal Code, which was a legacy of Dutch colonial rule, this law was drafted through a lengthy process involving the insights of legal experts and academics, as well as the aspirations of the Indonesian people. Its enactment reflects efforts to reform criminal law that not only adapt to the times but also integrate the values of Pancasila, local wisdom, and the principles of restorative justice. One of the provisions of Law No. 1 of 2023 concerns criminal provisions in local regulations. This provision, as set forth in Article 615 of Law No. 1 of 2023, stipulates that:

- (1) Upon the effective date of this Act, imprisonment penalties under other laws outside of this Act and local regulations shall be replaced with fines, subject to the following provisions:
 - a. imprisonment of less than 6 (six) months shall be replaced with a fine not exceeding Category I; and
 - b. imprisonment of 6 (six) months or more shall be replaced with a fine not exceeding Category II.
- (2) In the event that a fine imposed as an alternative to imprisonment as referred to in paragraph (1) exceeds Category II, the provisions of the relevant laws and regulations shall remain in force.

Upon reviewing the text of Article 615 of Law No. 1 of 2023 above, it is evident that there has been a paradigm shift in regulating criminal provisions within the substance of local

regulations, namely the elimination of imprisonment as a penalty in the substance of local regulations. According to Eddy O.S. Hiarij and Topo Santoso, the legislative intent behind this provision is to prevent the imposition of criminal penalties in the short term, thereby rendering imprisonment no longer necessary (Hiarij & Santoso, 2025: 634). Upon reviewing the text of Article 615 of Law No. 1 of 2023 above, it is evident that theConsequently, since the enactment of Article 615 of Law No. 1 of 2023, criminal penalties in local regulations have been converted to fines in accordance with the provisions set forth above. Therefore, subsequent local regulations to be enacted must comply with the provisions of Article 615 of Law No. 1 of 2023.

4. Articles IV, V, and VI of Law No. 1 of 2026

The enactment of Law No. 1 of 2026 was driven by the urgent need to align criminal penalty provisions with developments in national law, particularly following the implementation of Law No. 1 of 2023. In practice, there are still many criminal provisions outside the Criminal Code (KUHP), including in local regulations, that remain inconsistent—both in terms of the types and the scope of the sanctions prescribed—thereby potentially causing legal disharmony and uncertainty. Additionally, social dynamics and demands for a criminal justice system that is more proportional, effective, and justice-oriented also served as driving factors behind the enactment of this law. Therefore, Law No. 1 of 2026 serves as an instrument of harmonization and adjustment to ensure the consistency of criminal regulations nationwide, while simultaneously strengthening the principles of certainty, justice, and utility in the enforcement of law in Indonesia. One of the provisions of Law No. 1 of 2026 is to amend the criminal provisions contained in local regulations. Article IV of Law No. 1 of 2026 states that:

- (1) *Criminal provisions in Regional Regulations that contain a single criminal penalty in the form of imprisonment shall be amended as follows:*
 - a. *imprisonment of less than 6 (six) months shall be amended to a fine of up to Category I; and*
 - b. *imprisonment of 6 (six) months or more shall be amended to a fine of up to Category II.*
- (2) *Criminal provisions in Regional Regulations that contain a single criminal penalty in the form of a fine are amended to a fine as follows:*
 - a. *fines of less than Category II remain in effect as stated in the Regional Regulation; and*

- b. fines of more than Category II are amended to a fine of up to Category III.*
- (3) Criminal provisions in Regional Regulations that contain the threat of both imprisonment and a fine shall be amended as follows:*
 - a. Imprisonment shall be abolished; and*
 - b. Fines shall be amended in accordance with the provisions referred to in paragraph (2).*
- (4) The provisions referred to in paragraph (3) shall not apply to Regional Regulations concerning customary criminal offenses.*

Given the wording of the aforementioned article, it is clear that the provisions regarding criminal penalties in the content of local regulations have been clearly outlined, namely by stipulating that for local regulations containing a single criminal penalty in the form of imprisonment, this shall be converted to a fine; a single criminal penalty in the form of a fine shall not exceed Category III; and that the simultaneous imposition of imprisonment and a fine is replaced with imprisonment, while the fine must not exceed Category III. Thus, the provisions of Article 15 of Law No. 12 of 2011 in conjunction with Article 238 of Law No. 23 of 2014 have been amended through Articles V and VI of Law No. 1 of 2026, which affirm that, in essence, Regional Regulations may still contain criminal provisions, but these are limited to fines. Consequently, the scope for regulating criminal provisions within the content of Local Regulations has become more restricted, namely, they may only contain criminal provisions involving fines of up to Category III. The provisions in Articles IV, V, and VI of Law No. 1 of 2026 naturally differ from Article 615 of Law No. 1 of 2023. These differences can be seen in the table below:

Table 3. Differences in the Provisions on Criminal Penalties Between Article 615 of Law No. 1 of 2023 and Articles IV, V, and VI of Law No. 1 of 2026

No.	Law	Substance of the Article
1.	Article 615 of Law No. 1 of 2023	This merely reaffirms that the provisions of a local regulation may no longer prescribe imprisonment. If imprisonment has already been prescribed, it must be amended to a fine, taking into account the duration of the imprisonment. If the content of the Regional Regulation includes imprisonment of less than 6 (six) months, it shall be replaced with a fine of up to Category I. If the content of the

No.	Law	Substance of the Article
		Regional Regulation includes imprisonment of 6 (six) months or more, it shall be amended to a fine of up to Category II.
2.	Articles IV, V, and VI of Law No. 1 of 2026	It is hereby specified in detail that if the provisions of a Regional Regulation include a single criminal penalty in the form of imprisonment for less than 6 (six) months, such penalty shall be replaced with a fine not exceeding Category I. However, if the provisions of a Regional Regulation include imprisonment for 6 (six) months or more, such penalty shall be replaced with a fine not exceeding Category II. Furthermore, if the provisions of the Regional Regulation contain a single penalty in the form of a fine of less than Category II, then it remains in effect. If it contains a fine exceeding Category II, it shall be amended to a fine not exceeding Category III. Finally, if the provisions of the Regional Regulation include criminal penalties in the form of both imprisonment and a fine, the imprisonment penalty shall be removed, and the fine not exceeding Category II shall remain in effect, while the fine exceeding Category II shall be amended to not exceed Category III.

Source: Compiled by the author

The determination of whether a fine falls under Category I, Category II, or Category III may be based on the provisions of Article 79(1) of Law No. 1 of 2023, as follows:

(1) *The maximum fine shall be determined based on:*

- a. *Category I, Rp1,000,000.00 (one million rupiah);*
- b. *Category II, Rp10,000,000.00 (ten million rupiah);*
- c. *Category III, Rp50,000,000.00 (fifty million rupiah);*
- d. *Category IV, Rp200,000,000.00 (two hundred million rupiah);*
- e. *Category V, Rp500,000,000.00 (five hundred million rupiah);*
- f. *Category VI, Rp2,000,000,000.00 (two billion rupiah);*
- g. *Category VII, Rp5,000,000,000.00 (five billion rupiah); and*
- h. *Category VIII, Rp50,000,000,000.00 (fifty billion rupiah).*

Accordingly, when formulating criminal provisions in the substance of a Regional Regulation or making adjustments to such provisions, due consideration must be given to the provisions of Articles IV, V, and VI of Law No. 1 of 2026 *juncto* Article 79 paragraph (1) of Law No. 1 of 2023 to determine the amount of the criminal fine to be stipulated.

5. Section 5 paragraph (2) of Ministry of Home Affairs Regulation No. 80 of 2015

The provisions regarding criminal penalties in the substance of local regulations are further regulated in Article 5 paragraph (2) of Minister of Home Affairs Regulation No. 80 of 2015 as a follow-up to the mandate of Law No. 23 of 2014. One of the provisions set forth in Minister of Home Affairs Regulation No. 80 of 2015 concerns criminal penalties in the substance of local regulations. Article 5 paragraph (2) of Ministerial Regulation No. 80 of 2015 states that “*A Regional Regulation may include a penalty of imprisonment for a maximum of 6 (six) months or a fine of up to Rp50,000,000.00 (fifty million rupiah)*”. The wording of Article 5 paragraph (2) of Permendagri No. 80 of 2015 is not significantly different from Article 15 of Law No. 12 of 2011 in conjunction with Article 238 paragraph (2) of Law No. 23 of 2014.

The limitation on criminal sanctions in regional regulations (Peraturan Daerah) as stipulated in Article 5 paragraph (2) of Minister of Home Affairs Regulation No. 80 of 2015 must be understood as a direct mandate derived from Law No. 23 of 2014 on Regional Government. This provision reflects a hierarchical legal framework in which lower-level regulations are required to conform to the norms, standards, and boundaries established by higher legislation. Consequently, the restriction on the formulation of criminal sanctions in regional regulations is not indicative of a lack of regulatory innovation at the local level, but rather a necessary adherence to the principle of legality and the distribution of legislative authority within Indonesia’s system of governance. Any deviation from these prescribed limits would instead risk violating the statutory framework and undermining legal certainty.

Although there is no difference from Article 15 of Law No. 12 of 2011 in conjunction with Article 238 paragraph (2) of Law No. 23 of 2014, since the enactment of Law No. 1 of 2026, based on the principle of *lex posteriori derogat legi priori*, the provisions of Articles IV, V, and VI of Law No. 1 of 2026 shall apply. Even without invoking this principle, the provisions of Article 15 of Law No. 12 of 2011 in conjunction with Article 238 paragraph (2) of Law No. 23 of 2014 have already been amended through Articles V and VI of Law No. 1 of 2026. Thus, the historical development of criminal provisions in the substance of Regional Regulations can be classified into three periods or regulatory models. This historical development is illustrated in the table below:

Table 4. History of Criminal Provisions in the Content of Local Regulations

No.	Law	Types of Criminal Penalties	Validity Status
1.	Article 15 of Law No. 12 of 2011 and Article 238 paragraph (2) of Law No. 23 of 2014 <i>junctis</i> Article 5 paragraph (2) of Minister of Home Affairs Regulation No. 80 of 2015	Imprisonment for a maximum of 6 (six) months or a fine of up to Rp50,000,000.00 (fifty million rupiah)	Amended by the provisions of Articles V and VI of Law No. 1 of 2026
2.	Article 615 of Law No. 1 of 2023	A prison sentence of less than 6 (six) months shall be replaced by a fine not exceeding Category I; and a prison sentence of 6 (six) months or more shall be replaced by a fine not exceeding Category II	As provided for in Article IV of Law No. 1 of 2026
3.	Articles IV, V, and VI of Law No. 1 of 2026	A single penalty consisting of imprisonment for less than 6 (six) months shall be replaced with a fine of up to Category I. If the penalty consists of imprisonment for 6 (six) months or more, it shall be replaced with a fine of up to Category II. Furthermore, if the penalty consists of a single fine of less than Category II, it shall remain in effect. If it includes a fine exceeding Category II, it shall be converted to a fine not exceeding Category III. Finally, if it contains provisions for both imprisonment and a fine, the imprisonment shall be removed, and fines less than Category II shall remain in effect, while fines exceeding Category II shall be converted to a maximum of Category III.	Valid

Source: Compiled by the author

B. Adjustments to Criminal Provisions in the Content of Local Regulations Following the Enactment of Law No. 1 of 2026

After examining the previous sub-section, it is evident that the provisions regarding criminal penalties in the content of local regulations have undergone changes and developments, starting with the absence of any mention of the specific types of criminal penalties, then specifying that criminal provisions included in Regional Regulations are limited to imprisonment for a maximum of 6 (six) months or a fine of up to Rp50,000,000.00 (fifty million rupiah), to the eventual elimination of imprisonment and its replacement with fines. Thus, the provisions set forth in Articles IV, V, and VI carry distinct legal implications for the enactment of Regional Regulations in the regions. These implications extend not only to the context of enacting Regional Regulations but also require local governments to amend existing Regional Regulations -Regional Regulations containing criminal provisions by referring to Article 15 of Law No. 12 of 2011 and Article 238 paragraph (2) of Law No. 23 of 2014 in conjunction with Article 5 paragraph (2) of Minister of Home Affairs Regulation No. 80 of 2015. As for the examples of local regulations cited by the author, as shown in Table 1 above, amendments are necessary. The proposed amendments are as follows:

Table 5. Examples of Amendments to Local Regulations Containing Criminal Provisions Following the Enactment of Law No. 1 of 2026

No.	Local Regulation	Text of the Original Article	Text of the Amendment
1.	Surabaya City Regulation No. 4 of 2024 on the Transfer of Infrastructure, Facilities, and Utilities in Industrial, Commercial, Residential, and Settlement Areas	Article 28 (1) In addition to being subject to the administrative sanctions referred to in Article 26, any person or business entity/legal entity that violates the provisions of Article 4(1), Article 4(4), Article 5(3), Article 5(4), Article 7(1), Article 7(2), Article 7(3), Article 8(2), Article 8(4), Article 9(1), Article 9(2), Article 10(2), Article 10(3), Article 10 paragraph (4), Article	Article 28 (1) (1) In addition to being subject to the administrative sanctions referred to in Article 26, any person or business entity/legal entity that violates the provisions of Article 4(1), Article 4(4), Article 5(3), Article 5(4), Article 7(1), Article 7(2), Article 7(3), Article 8(2), Article 8(4), Article 9(1), Article 9(2), Article 10(2), Article 10(3), Article 10 paragraph (4), Article 15 paragraph (1), Article 15 paragraph (3) and/or Article 22

No.	Local Regulation	Text of the Original Article	Text of the Amendment
		15 paragraph (1), Article 15 paragraph (3) and/or Article 22 paragraph (5), shall be punishable by imprisonment for a maximum of 3 (three) months or a fine of up to Rp 50,000,000.00 (fifty million rupiah).	paragraph (5), shall be punishable by a fine of up to Category III.
2.	Sidoarjo Regency Regulation No. 4 of 2022 on the Preservation of Cultural Heritage Sites	Article 76 Any person who fails to fulfill the obligations referred to in Article 30, Article 34 paragraph (2), and Article 36 shall be punished by imprisonment for a maximum of 6 (six) months and/or a fine of up to Rp.50,000,000 (fifty million rupiah).	Article 76 Any person who fails to fulfill the obligations referred to in Article 30, Article 34(2), and Article 36 shall be subject to a fine of up to Category III.
3.	Gresik Regency Regulation No. 7 of 2015 on the Protection of Sustainable Food Cropland	Article 51 (1) In addition to being subject to sanctions, any individual who converts sustainable food agricultural land or sustainable food land reserves as referred to in Article 19 paragraph (2) shall be punished by imprisonment for a maximum of 5 (five) years and a fine of up to Rp. 1 billion (one billion rupiah). (2) In the event that the act referred to in paragraph (1) is committed by a government official, the penalty shall be increased by one-third (1/3) of the prescribed penalty. Article 52 (1) In the event that a criminal offense as	Article 51 (1) (1) In addition to being subject to sanctions, any individual who converts sustainable food agricultural land or sustainable food land reserves, as referred to in Article 19 paragraph (2), shall be punished in accordance with applicable laws and regulations. (2) Deleted. Pasal 52 (1) Dalam hal tindak Pidana (1) If a criminal offense as referred to in Article 19 paragraph (2) is committed by a corporation, the corporation shall be punished in accordance with applicable laws and regulations.

No.	Local Regulation	Text of the Original Article	Text of the Amendment
		referred to in Article 19 paragraph (2) is committed by a corporation, its officers shall be punished by imprisonment for a minimum of 2 (two) years and a maximum of 7 (seven) years and a fine of no less than Rp. 2 billion (two billion) and no more than Rp. 7 billion (seven billion).	(2) In addition to the fine referred to in paragraph (1), the corporation may be subject to criminal penalties in accordance with applicable laws and regulations.
		(2) In addition to the fine referred to in paragraph (1), the corporation may be subject to the following penalties:	Pasal 53 Any government official authorized to issue permits for the conversion of sustainable food crop land and sustainable agricultural reserve land who fails to comply with the provisions set forth in Article 19(2) shall be punished in accordance with applicable laws and regulations.
		a. Confiscation of assets derived from the criminal offense;	
		b. Termination of contracts with the government;	
		c. Dismissal of officers; and/or d. Prohibition on officers from establishing a corporation in the same business sector.	
		Article 53 Any government official authorized to issue permits for the conversion of sustainable food agricultural land and sustainable agricultural reserve land who fails to comply with the provisions set forth in Article 19 paragraph (2) shall be punished by imprisonment for a term of not less than 1 (one) year and not more	

No.	Local Regulation	Text of the Original Article	Text of the Amendment
		than 5 (five) years and/or a fine of not less than Rp. 1 billion (one billion rupiah) and a maximum of Rp. 5 billion (five billion rupiah).	

Source: Compiled by the author

Table 5 above is one example the author can illustrate based on the Annex to Law No. 1 of 2026. The examples of the Regional Regulations provided above are based on the research scope, which is limited to East Java. Thus, following the enactment of Law No. 1 of 2026, provisions regarding criminal penalties in the content of Regional Regulations are limited to fines. These fines must still comply with the provisions set forth in Article IV of Law No. 1 of 2026. Most importantly, the content of a Regional Regulation is not permitted to include provisions for fines exceeding Category III, namely Rp50,000,000.00 (fifty million rupiah).

Local regulations that fail to adjust their criminal provisions following the enactment of Law No. 1 of 2026 on Criminal Law Adjustments have the potential to create disharmony within the national legal system. This is because the substance of the criminal sanctions in such local regulations is no longer aligned with the updated criminal law policy, whether in terms of type, severity, or sentencing approach. This inconsistency may result in weakened normative legitimacy of the local regulation, thereby opening the door to judicial review or annulment by the central government. Furthermore, law enforcement officials at the local level may face confusion in applying criminal provisions that are no longer relevant, which ultimately risks undermining the effectiveness of law enforcement.

Conclusions

Since the enactment of Law No. 12 of 2011 and Law No. 23 of 2014, in conjunction with Minister of Home Affairs Regulation No. 80 of 2015, provisions regarding criminal penalties in local regulations were limited to imprisonment for a maximum of 6 (six) months or a fine of up to Rp50,000,000.00 (fifty million rupiah). However, following the enactment of Law No. 1 of 2023, these limits have changed, with imprisonment being replaced by a fine. The change from imprisonment to a fine was based on the rationale of preventing the imposition of criminal penalties in the short term, so that the penalty of imprisonment is no longer maintained. Although changes were made in Law No. 1 of 2023, subsequent developments led to further changes in Law No. 1 of 2026.

The scope of criminal provisions in the content of local regulations, as stipulated in Law No. 1 of 2026, is explained in detail: a single criminal penalty of imprisonment for less than 6 (six) months is replaced with a fine of up to Category I. If the provisions include imprisonment of 6 (six) months or more, this is amended to a fine of up to Category II. Furthermore, if the provisions include a single penalty in the form of a fine of less than Category II, it remains in effect. If the provisions include a fine exceeding Category II, this is amended to a fine of up to Category III.

Finally, if the provision includes criminal penalties in the form of imprisonment and fines, the imprisonment penalty is abolished and fines below Category II remain in effect, while fines exceeding Category II are reduced to a maximum of Category III. For detailed information regarding the amounts of criminal fines for Categories I, II, and III, please refer to Article 79(1) of Law No. 1 of 2023, which provides that Category I is set at Rp1,000,000.00 (one million rupiah), Category II at Rp10,000,000.00 (ten million rupiah), and Category III at Rp50,000,000.00 (fifty million rupiah). Local government officials in each regency and city are urged to promptly revise their local regulations to align the criminal provisions that may be included in such regulations with those set forth in Law No. 1 of 2026.

References

- Adisti, N. A., Nurillah, I., & Banjarani, D. R. (2024). Penyusunan Perubahan Ketentuan Pidana Dalam Peraturan Daerah Pasca Berlakunya Undang-Undang Nomor 1 Tahun 2023 Tentang Kitab Undang-Undang Hukum Pidana Dengan Menggunakan Metode Omnibus Law. *Jurnal Legislasi Indonesia*, 21(2), 280–291. <https://doi.org/10.54629/jli.v21i2.1110>
- Alfa, D., Yani, T. A., & Sulaiman. (2024). Comparative Study of Qanuns and Regional Regulations: Exploring the Distinctive Features of Aceh. *EVOLUTIONARY STUDIES IN IMAGINATIVE CULTURE*, 8(2), 1304–1313. <https://doi.org/10.70082/esiculture.vi.1378>
- Alqarni, W., Ghifari, M. S., Asemki, Y., Rizki, M., Safira, B., Nindiah, I., Rosa, M., Rahmi, N., Fadhil, R., & Wahyuni, W. (2022). Dynamics of Asymmetric Decentralization on the Implementation of Regional Autonomy in Aceh. *Journal of Governance and Public Policy*, 9(3), 185–194. <https://doi.org/10.18196/jgpp.v9i3.13769>
- AR, S. (2018). Penentuan Sanksi Pidana Dalam Suatu Undang-Undang. *Jurnal Legislasi Indonesia*, 6(4), 615–666. <https://doi.org/10.54629/jli.v6i4.337>
- Baidhowah, A. (2022). Explaining Decentralization Performance in Indonesia: Member of Parliament Decision, Political Networks, and Constitution Amendment. *Jurnal Bina Praja*, 14(1), 97–109. <https://doi.org/10.21787/jbp.14.2022.97-109>
- Desyanti, D., Sudarsono, S., Safa'at, M. A., & Setia Negara, T. A. (2021). The Original Intent of Settings Judicial Review of Local Regulations in Indonesia. *International Journal of Multicultural and Multireligious Understanding*, 8(9), 300.

- <https://doi.org/10.18415/ijmmu.v8i9.3001>
- Hadi, S. (2024). The Influence of Theorie Von Stufenbau Der Rechtsordnung in the Indonesian Legal System. *DiH: Jurnal Ilmu Hukum*, 20(2), 202–210. <https://doi.org/10.30996/dih.v20i2.10989>
- Hadi, S., Fikri, S., Riqiey, B., & Rustambekov, I. (2025). Legal Reform of the Division of Authority for Mining Affairs: Balance between Regional Autonomy and National Interests. *Journal of Law and Legal Reform*, 6(3), 1587–1630. <https://doi.org/10.15294/jllr.v6i3.20947>
- Hakim, A., & Marisa, H. (2021). The Formation of Responsive Regional Regulations in Supporting Regional Autonomy in Pekanbaru City. *JOELS: Journal of Election and Leadership*, 2(1), 7–11. <https://doi.org/10.31849/joels.v2i1.5884>
- Harefa, S., Sri Ismawati, & Mega Fitri Hertini. (2025). Transformasi Kebijakan Pemidanaan Dalam Kuhp Nasional: Menuju Sistem Pemidanaan Yang Berkeadilan Dan Humanis. *Simbur Cahaya*, 32(2), 283–306. <https://doi.org/10.28946/sc.v32i2.5050>
- Hiariej, E. O. S. (2024). *Prinsip-Prinsip Hukum Pidana: Edisi Penyesuaian KUHP Nasional*. Rajawali Pers.
- Hiariej, E. O. S., & Santoso, T. (2025). *Anotasi KUHP Nasional*. Rajawali Pers
- Huda, N. (2016). Kedudukan Peraturan Daerah Dalam Hierarki Peraturan Perundang-undangan. *Jurnal Hukum IUS QUIA IUSTUM*, 13(1). <https://doi.org/https://doi.org/10.20885/iustum.vol13.iss2>
- Indaryanto, W. (2022). Interpretasi Mengenai Ketentuan Pidana dalam Peraturan Daerah di Daerah Istimewa Yogyakarta. *WICARANA*, 1(1), 29–46. <https://doi.org/10.57123/wicarana.v1i1.3>
- Marzuki, P. M. (2021). *Penelitian Hukum*. Kencana.
- Mu'amar, T., & Diamantina, A. (2025). Analysis Of The Role Of Regional Governments And The Ministry Of Law And Human Rights In The Formation And Harmonization Of Draft Regional Regulations After UU Nomor 15 Tahun 2019. *Journal of Law, Politic and Humanities*, 5(6), 5013–5022. <https://doi.org/10.38035/jlph.v5i6.2323>
- Nggilu, N. M. (2020). Tinjauan Yuridis Pengaturan Sanksi Pidana dalam Peraturan Daerah Provinsi Gorontalo. *Lambung Mangkurat Law Journal*, 5(2), 109–121. <https://doi.org/10.32801/abc.v5i2.102>
- Palimai, A. F. H., Pawennei, M., & Badaru, B. (2026). The Effectiveness of Restorative Justice in Judicial Decisions: The Transformation of the Sentencing Paradigm in Indonesia. *Al-Ishlah: Jurnal Ilmiah Hukum*, 29(1), 30–41. <https://doi.org/10.56087/j7x6y995>
- Prayoga, F., & Ananda, C. F. (2023). Rethinking of Local Autonomy and Fiscal Decentralization Policy: Can It Improve The Quality of Human Capital? A Case in Eastern Region of Indonesia. *Journal of Indonesian Applied Economics*, 11(2), 129–145. <https://doi.org/10.21776/ub.jiae.2023.011.02.2>
- Putri, A. O., Surahman, S., & Imran, I. (2026). The Authority of Autonomous Regions in The Formation of Regional Legal Products in The Unitary State of Indonesia System. *Interdisciplinary Social Studies*, 5(2), 957–964. <https://doi.org/10.55324/iss.v5i2.1031>
- Rahmat, M. F. N. (2025). Local Regulation Drafting: Examining the Legislative Function of the Regional People's Representative Council (DPRD) of Probolinggo City. *The Sunan Ampel Review of Political and Social Sciences*, 5(1).

- <https://doi.org/https://doi.org/10.15642/sarpass.2025.5.1.46-58>
- Rifaid, M., Haris, A., Ramadhan, M. J., & Hajairin. (2025). Transformation of Indonesian Criminal Justice Paradigm: Analysis of the Integration of Restorative Justice Principles in the National Criminal Code (Law No. 1 of 2023). *Lex Journal : Kajian Hukum dan Keadilan*, 9(3), 694–706. <https://doi.org/10.25139/lex.v9i3.10823>
- Rikardo, O., Purwadini, S. A., & Maharany, S. F. (2024). Peranan Peraturan Daerah Dalam Hierarki Peraturan Perundang-Undangan Di Indonesia. *Jurnal Hukum Sasana*, 10(1), 162–179. <https://doi.org/10.31599/sasana.v10i1.2110>
- Risnain, M. (2021). Ideas For Strengthening Supreme Court Judicial Review Authority In Review Of Regional Regulations. *Jurnal Hukum dan Peradilan*, 9(3), 505. <https://doi.org/10.25216/jhp.9.3.2020.505-522>
- Sedubun, V. J. (2020). Philosophical Establishment Of Regional Regulations Based On Regional Characteristics. *Pattimura Law Journal*, 5(1), 1. <https://doi.org/10.47268/palau.v5i1.476>
- Suharyo, S. (2015). Pembentukan Peraturan Daerah, Dan Penerapan Sanksi Pidana Serta Problematikanya. *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional*, 4(3), 431. <https://doi.org/10.33331/rechtsvinding.v4i3.15>
- Sukardi, S., & Wardana, D. J. (2024). Does the Government have the authority to annul Regional Regulations? *Legality: Jurnal Ilmiah Hukum*, 32(2), 263–276. <https://doi.org/10.22219/ljih.v32i2.35027>
- Suparto, S. (2021). The Position and Function of the Regional Representative Council in Constitutional System of Indonesia According to the Regional Autonomy Laws: A Shift from Legislative to Regional Executive. *UNIFIKASI: Jurnal Ilmu Hukum*, 8(1), 53–69. <https://doi.org/10.25134/unifikasi.v8i1.3577>