

Ecuador

National Child Protection Legislation

National Legislation

- Age of Child: **Boy/Girl – Under 12 years of age; Adolescent – Between 12 and 18 years of age**
[Code of Childhood and Adolescence](#)
Art. 4.- Definition of a boy, girl and adolescent
A boy or girl is the person who has not reached the age of twelve. Adolescent is the person of both sexes between twelve and eighteen years of age.
 - Age of Consent: **14 years of age**
[Criminal Code of Ecuador](#)
Art. 171. – Rape
Carnal access is rape, with total or partial introduction of the virile member, by oral, anal or vaginal route; or the introduction, vaginally or anally, of objects, fingers or organs other than the virile member, to a person of either sex. Whoever commits it will be punished with imprisonment from nineteen to twenty-two years in any of the following cases:
 1. When the victim is deprived of reason or sense, or when due to illness or disability he cannot resist.
 2. When violence, threat or intimidation is used.
 3. When the victim is under fourteen years of age.
 - Age of Marriage: **18 years of age or with express parental consent**
[Civil Code, Title III of Marriage](#)
Art. 83
Those who have not reached the age of eighteen may not marry without express consent of the person who exercises parental authority.
 - Age of Criminal Responsibility: **18 years of age**
[Criminal Code of Ecuador](#)
Art. 38
Persons who have not reached the age of 18, will be subject to the Code of Childhood and Adolescence (a separate legal code detailing criminal and civil procedures for minors).
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- **Extraterritoriality**
[Criminal Code of Ecuador](#)
Art. 14.- Spatial scope of application
The rules of this Code will apply to:
 1. Any offense committed within the national territory.
 2. Offenses committed outside of Ecuadorian territory, in the following cases:
 - a) When the infringement produces effects in Ecuador or in the places subject to its jurisdiction.
 - b) When the criminal offense is committed abroad, against one or more Ecuadorian persons and has not been tried in the country where it was committed.

- c) When the criminal offense is committed by the public servants while they are performing their official duties or activities.
 - d) When the criminal offense affects legal rights protected by International Law, through international instruments ratified by Ecuador, provided that its trial has not been initiated in another jurisdiction.
 - e) When the infractions constitute serious violations of human rights, in accordance with the procedural rules established in this Code.
3. Violations committed on board ships or military or merchant aircraft of the Ecuadorian flag or registration.
 4. Violations committed by the servants of the Armed Forces abroad, based on the principle of reciprocity.

▪ **Dual Criminality**

[Criminal Code of Ecuador](#)

Art. 14.- Spatial scope of application.

The rules of this Code are apply to:

1. Any infringement committed within the national territory.
2. Infringements committed outside Ecuador's territory, in the following cases:
 - a) Where the infringement has effects in Ecuador or in the places subject to their jurisdiction.
 - b) When the criminal offence is committed abroad, against one or more Ecuadorians and has not been tried in the country where it was committed.
 - c) When criminal offences are committed by public servants while performing their official duties or administrations.
 - d) Where the criminal offence affects legal property protected by law International, through international instruments ratified by Ecuador, provided that their trial in another jurisdiction has not been initiated.
 - (e) Where infringements constitute serious violations of human rights in accordance with the procedural rules set out in this Code.
3. Violations committed on board military ships or aircraft or flag merchants or Ecuadorian license plates.
4. Violations committed by Armed Forces servers in foreign nationals, on the basis of the principle of reciprocity.

▪ **Mandatory reporting requirements**

[Criminal Code of Ecuador](#)

Art. 422.- Duty to report

Those who are obliged to do so by express mandate of the Law must report, especially:

1. The public servant who, in the exercise of his functions, is aware of the commission of an alleged crime against the efficiency of the public administration.
2. Health professionals from public or private establishments, who are aware of the commission of an alleged crime.
3. The directors, educators or other persons responsible for educational institutions, for alleged crimes committed in said centers.

[Code of Childhood and Adolescence](#)

Art. 17.- Legal duty to denounce.

Any person, including judicial and administrative authorities, who by any means is aware of the violation of a child's right, adolescent, is required to report it to the competent authority within a maximum period of forty-eight hours.

Art. 72.- Persons forced to report.

Persons who by profession or trade are aware of a fact that has characteristics of maltreatment, abuse, sexual exploitation, trafficking or loss of a child or adolescent being a victim, must report it within twenty-four hours of such knowledge to any of the competent judicial or administrative authorities, including the Ombudsman's Office, as a guarantor of fundamental rights.

▪ **Statute of Limitations**

[Criminal Code of Ecuador](#)

Art. 417.- Limitation of the exercise of action.

The limitation period may be declared by the court, ex officio or at the request of a party, in accordance with the following rules:

1. Over time and under the conditions set forth in this Code.
2. Both in offences of public or private exercise of action, it is distinguished whether, committed the crime, the process has been initiated or not.
3. For offences in which criminal proceedings have not been initiated:
 - a) The public exercise of the action prescribes at the same time the maximum of the penalty of deprivation of liberty provided for in the criminal type, counted since the crime is committed. Under no circumstances shall the public exercise of the action prescribe less than five years.
 - (b) The private exercise of the action shall be prescribed within six months, since the crime is committed.
 - c) In the case of a continuing offence, the limitation period shall be counted from the date the conduct ceases.
 - d) In cases of disappearance of a person, the statute of limitations will begin to run from the day the person appears, or the necessary elements are available to formulate an accusation for the corresponding crime.
4. If criminal proceedings have been initiated, the public exercise of the action prescribe at the same time the maximum of the custodial sentence, provided for in the criminal rate, counted from the start date of the respective instruction. Under no circumstances shall the public exercise of the action prescribe in less than Five years.
5. In the private exercise of the action, the limitation period shall take place after two years from the date of the complaint of the complaint.
6. In the case of contraventions, the exercise of the action shall be prescribed in three months, counted since the offence was committed. If the process has started for a contravention, the requirement will operate within one year, counted from the beginning of the procedure.

▪ **Obligations of Educational Institutions**

[Code of Childhood and Adolescence](#)

Art. 39.- Rights and duties of parents in relation to the right to education

These are the rights and duties of parents and other persons responsible for children and teenagers:

1. Enroll them in educational facilities;
2. Select an education for their children according to their principles and beliefs;
3. Actively participate in the development of educational processes;
4. Control the attendance of their sons, daughters or represented at educational establishments;

5. Actively participate to improve the quality of education;
6. Ensure the maximum use of the educational means provided by the State and society;
7. Monitor the respect of the rights of their sons, daughters or those represented in the educational establishments; and,
8. Report violations of those rights, of which they are aware.

Art. 40.- Disciplinary measures.-

Teaching practice and discipline in educational establishments will respect the rights and guarantees of children and adolescents; they will exclude all forms of abuse, mistreatment, and devaluation, therefore, any form of cruel punishment, inhuman and degrading.

Art. 41.- Prohibited sanctions.-

Educational establishments are prohibited from applying:

1. Corporal sanctions;
2. Psychological sanctions that violate the dignity of children and adolescents;
3. Collective sanctions are prohibited; and,
4. Measures that imply exclusion or discrimination due to a personal condition of the student, his parents, legal representatives or those who have him under the care of her. Discriminatory measures due to the pregnancy or maternity of an adolescent are included in this prohibition. No child or adolescent may be denied enrollment or expelled due to the condition of her parents.

In any procedure aimed at establishing the responsibility of a boy, girl or adolescent for an act of indiscipline in an educational establishment, the right to defense of the student and their parents or representatives will be guaranteed.

Any form of sexual assault in educational establishments will be brought to the attention of the competent Fiscal Agent, for the purposes of the law, without prejudice to the investigations and administrative sanctions that correspond in the educational field.

Art. 52.- Prohibitions related to the right to dignity and image.-

It is prohibited:

1. The participation of children and adolescents in programs, advertising messages, in productions of pornographic content and in shows whose contents are inappropriate for their age;
2. The use of children or adolescents in programs or shows of political or religious proselytism;
3. The publication or exhibition of news, reports, chronicles, life stories or any other journalistic expression with the image or proper names of boys, girls or adolescents who have been victims of mistreatment or abuse;
4. The publication or exhibition of images and recordings or written references that allow the identification or individualization of a child or adolescent who has been a victim of abuse, sexual abuse or criminal offense, and any other reference to the environment in which they take place; and,
5. The publication of the name, as well as the image of the minors accused or sentenced for crimes or misdemeanors.

Even in the cases permitted by law, the image of an adolescent over fifteen years of age may not be used publicly, without their express authorization; nor that of a boy, girl or adolescent under that age, without the authorization of their legal representative, who will only give it if he does not harm the rights of his client.

Art. 72.- Persons forced to report.

Persons who by profession or trade are aware of a fact that has characteristics of maltreatment, abuse, sexual exploitation, trafficking or loss of a child or adolescent being a victim, must report it within twenty-four hours of such knowledge to any of the competent judicial or administrative authorities, including the Ombudsman's Office, as a guarantor of fundamental rights.

Art. 75.- Prevention of institutional abuse.

The State will plan and implement administrative, legislative, pedagogical, protection, care, care and other measures that may be necessary, in public and private institutions, in order to eradicate all forms of maltreatment and abuse, and to improve relations between adults and children and adolescents, and between them, especially in the environment of their daily lives.

Administrative, pedagogical, training, traditional cultural, protection, care, care and any other kind of practices carried out by any public or private institution must respect the rights and guarantees of children and adolescents, and exclude all forms of maltreatment and abuse.

- **Prohibition to hold certain positions**

[Criminal Code of Ecuador](#)

Art. 65.- Disqualification for the exercise of profession, employment or trade.

When the crime is directly related to the exercise of the profession, employment or trade of the sentenced person, the judge, in sentence, will provide that once the custodial sentence has been completed, she is disqualified from the exercise of her profession, job or trade, for the time determined in each criminal type.

- **Employment Law**

[Labor Code of Ecuador](#)

Art. 169.- Causes for the termination of the individual contract.

The individual work contract ends:

1. For the causes legally established in the contract;
2. By agreement of the parties;
3. Due to the conclusion of the work, period of work or services object of the contract;
4. Due to the death or disability of the employer or extinction of the contracting legal entity, if there is no legal representative or successor who continues the company or business;
5. Due to the death of the worker or permanent and total incapacity for work;
6. Due to unforeseeable circumstances or force majeure that make work impossible, such as fire, earthquake, storm, explosion, plagues in the countryside, war and, in general, any other extraordinary event that the contracting parties could not foresee or that foreseen, they could not avoid it;
7. At the will of the employer in the cases of article 172 of this Code;
8. By the will of the worker according to article 173 of this Code; and,
9. Due to eviction presented by the worker.

Art. 172.- Causes for which the employer can terminate the contract.-

The employer may terminate the employment contract, with prior approval, in the following cases:

1. For repeated and unjustified absences of punctuality or attendance at work or for abandonment of it for a time greater than three consecutive days, without just cause and provided that said causes have occurred within a monthly work period;
2. Due to indiscipline or serious disobedience to the internal regulations legally approved;
3. Due to lack of probity or immoral conduct of the worker;
4. For serious injuries to the employer, his spouse or partner in common law, ascendants or descendants, or their representative;
5. Due to manifest ineptitude of the worker, regarding the occupation or work for which he undertook;
6. For unjustified complaint against the employer regarding his obligations in Social Security. However, if the complaint is justified, the worker's stability will be assured for two years in permanent jobs;
7. For not complying with the security, prevention and hygiene measures required by law, by its regulations or by the competent authority; or contrary to, without due justification, the prescriptions and medical opinions; and,
8. For committing workplace harassment, either individually or in coordination with other individuals, towards a colleague or co-worker, towards the employer or towards a subordinate or subordinate in the company.

Prior to the request for approval, a conciliation will be opened that will preside over the competent labor authority, in which the representatives of the workers and the employer or whoever represents him will be heard, in addition to the interested party.

▪ **Criminal Law - Defamation**

[Criminal Code of Ecuador](#)

Art. 182.- Slander

The person who, by any means, makes a false accusation of a crime against another, it will be punished with imprisonment from six months to two years.

The pronouncements made before authorities, judges and courts do not constitute slander, when the charges have been made by reason of the defense of the cause.

Whoever proves the veracity of the allegations will not be responsible for slander. However, in no case will evidence be admitted on the imputation of a crime that has been the subject of a sentence confirming the innocence of the accused, dismissal or filing.

There will be no place for criminal liability if the author of slander voluntarily retracts before issuing an enforceable sentence, provided that the publication of the retraction is made at the expense of the person responsible, is carried out in the same medium and with the same characteristics in which it was published. the imputation. Retraction does not constitute a form of acceptance of guilt.

▪ **Private Fostering**

No information was found.

Sexual Offenses Against Children

Criminal Code of Ecuador (2018)

Art. 91.- Human trafficking

The recruitment, transportation, transfer, delivery, reception or reception for oneself or for a third party, of one or more persons, either within the country or from or to other countries for the purpose of exploitation, constitutes a crime of human trafficking.

Exploitation is any activity that results in a material or economic benefit, an immaterial advantage or any other benefit, for oneself or for a third party, through the submission of a person or the imposition of living or working conditions, obtained from:

1. The illegal extraction or commercialization of organs, tissues, fluids or genetic material from living people, including tourism for organ donation or transplantation.
2. The sexual exploitation of people including forced prostitution, sex tourism and child pornography.
3. Labor exploitation, including forced labor, debt bondage and child labor.
4. Promise of marriage or servile de facto union, including precocious, arranged de facto union, as compensation or transaction, temporary or for procreation purposes.
5. The illegal adoption of girls, boys and adolescents.
6. Begging.
7. Forced recruitment for armed conflicts or for the commission of acts punishable by law.
8. Any other type of exploitation.

Art. 100.- Sexual exploitation of people

The person who, for their own benefit or that of third parties, Sell, lend, take advantage of or give in exchange to another to perform one or more acts of a sexual nature, will be punished with a custodial sentence of thirteen to sixteen years.

If the behavior described is carried out on older adults, girls, boys, adolescents, pregnant women, people with disabilities or catastrophic illness, people at risk or in vulnerable situations, or between the victim and the aggressor a consensual relationship of a couple, family, conjugal or economic dependency is maintained or has been maintained or there is a link of civil, military, educational, religious or labor authority, the custodial sentence will be sixteen to nineteen years.

Art. 101.- Forced prostitution

The person who compels, demands, imposes, promotes or induces another against their will to carry out one or more acts of a sexual nature, will be punished with a custodial sentence of thirteen to sixteen years, in one or more of the following circumstances:

1. When taking advantage of vulnerable conditions of the victim or using violence, threats or intimidation.
2. When the offender maintains or has maintained a family, consensual relationship as a spouse, ex-spouse, partner, ex-partner, partner or ex-partner in common-law union, family or relative up to the fourth degree of consanguinity or second of affinity of the victim.
3. When you have some kind of relationship of trust or authority with the victim.

Art. 102.- Sex tourism

The person who organizes, promotes, offers, provides, transfers, recruits, acquires or contracts tourist activities that involve services of a sexual nature, will be punished with imprisonment of seven to ten years.

If the victims are in any of the following cases, the custodial sentence will be from ten to thirteen years:

1. If they are girls, boys or adolescents or people in vulnerable situations, even if they have given their consent.
2. When violence, threats or intimidation is used.
3. The person does not have the ability to understand the meaning of the event.

Art. 103.- Pornography with the use of girls, boys, or adolescents

The person who photographs, films, records, transmits or edits visual, audiovisual, computer, electronic materials or any other physical medium or format that contains the representation visual of real or simulated nudity or semi-nudity of girls, boys or adolescents in a sexual attitude; It will be punished with a custodial sentence of thirteen to sixteen years.

If the victim, in addition, suffers some type of disability or serious or incurable illness, he will be punished with a custodial sentence of sixteen to nineteen years.

When the offender is the father, mother, relative up to the fourth degree of consanguinity or second degree of affinity, guardian, legal representative, trustee or belongs to the intimate environment of the family; Minister of worship, teacher, teacher, or person who, due to his profession or activity, has abused the victim, shall be punished with a custodial sentence of twenty-two to twenty-six years.

Art. 104.- Commercialization of pornography with the use of girls, boys, or adolescents

The person who advertises, buys, possesses, carries, transmits, downloads, stores, imports, exports or sells, by any means, for personal use or for exchange of pornography of children and adolescents, will be punished with a custodial sentence of ten to thirteen years.

Art. 166.- Sexual harassment

The person who requests any act of a sexual nature, for himself or for a third party, taking advantage of a situation of labor, teaching, religious or similar authority, be a tutor or tutor, curator or curator, ministers of cult, education or health professional, personnel responsible for the care and care of the patient or who maintain a family bond or any other form that implies subordination of the victim, with the threat of causing the victim or a third party, an evil related to the legitimate expectations that it may have in the field of said relationship, it will be punished with a custodial sentence of one to three years.

When the victim is under eighteen years of age or a person with a disability or when the person cannot understand the meaning of the event or for any reason cannot resist it, they will be punished with a custodial sentence of three to five years.

The person who requests favors of a sexual nature that threaten the sexual integrity of another person, and that is not provided for in the first paragraph of this article, will be punished with imprisonment of six months to two years.

Art. 167.- Rape

A person over eighteen years of age who, resorting to deceit, has sexual relations with another, over fourteen and under eighteen years of age, will be punished with a custodial sentence of one to three years.

Art. 168.- Distribution of pornographic material to girls, boys, and adolescents

The person who disseminates, sells or delivers pornographic material to girls, boys or adolescents, will be punished with a custodial sentence of one to three years.

Art. 169.- Corruption of girls, boys and adolescents

The person who incites, leads or allows the entry of girls, boys or adolescents to brothels or places where pornography is exhibited, will be punished with a custodial sentence of three to five years.

Art. 170.- Sexual abuse.

The person who, against the will of another, executes on her or forces her to execute on herself or another person, an act of a sexual nature, without there being penetration or carnal access, It will be punished with a custodial sentence of three to five years.

When the victim is under fourteen years of age or disabled; when the person does not have the capacity to understand the meaning of the fact or for any reason cannot resist it; or if the victim, as a consequence of the offense, suffers a physical injury or permanent psychological damage or contracts a serious or fatal illness, he / she will be punished with a custodial sentence of five to seven years.

If the victim is less than six years old, he will be punished with imprisonment of seven to ten years.

Art. 171.- Rape

Carnal access is rape, with total or partial introduction of the virile member, by oral, anal or vaginal route; or the introduction, vaginally or anally, of objects, fingers or organs other than the virile member, to a person of either sex. Whoever commits it, will be punished with imprisonment from nineteen to twenty-two years in any of the following cases:

1. When the victim is deprived of reason or sense, or when due to illness or disability he cannot resist.
2. When violence, threat or intimidation is used.
3. When the victim is under fourteen years of age.

It will be sanctioned with the maximum of the penalty provided in the first paragraph, when:

1. The victim, as a consequence of the offense, suffers a physical injury or permanent psychological damage.
2. The victim, as a consequence of the offense, contracts a serious or fatal illness.
3. The victim is less than ten years old.
4. The aggressor is a guardian, legal representative, trustee or any person from the intimate environment of the family or the victim's environment, minister of worship or education or health professional or any person who has the duty of custody over the victim.
5. The aggressor is ascendant or descendant or collateral up to the fourth degree of consanguinity or second degree of affinity.
6. The victim is under the care of the aggressor for any reason.

In all cases, if the death of the victim occurs, it will be punished with a custodial sentence of twenty-two to twenty-six years.

Art. 172.- Use of people for public display for purposes of a sexual nature.

The person who uses girls, boys or adolescents, people over sixty-five years of age or people with disabilities to force them to show their body totally or partially for purposes of a sexual nature, shall be punished with a custodial sentence of five to seven years.

Art. 173.- Contact for sexual purposes with minors under eighteen years of age by electronic means

The person who through electronic or telematic means proposes to arrange a meeting with a person under eighteen years of age, provided that such proposal is accompanied by acts materials directed

to the approach with sexual or erotic purpose, will be sanctioned with imprisonment of one to three years.

When the rapprochement is obtained through coercion or intimidation, it will be punished with a custodial sentence of three to five years.

The person who impersonating a third party or through the use of a false identity by electronic or telematic means, establish communications of sexual or erotic content with a person under eighteen years of age or with a disability, will be punished with imprisonment of three to five years.

Art. 174.- Offer of sexual services with minors under eighteen by electronic means

The person who uses or facilitates email, chat, instant messaging, social networks, blogs, photoblogs, online games or any other electronic means or telematic to offer sexual services with minors under eighteen years of age, will be punished with imprisonment of seven to ten years.

Art. 47.- Aggravating circumstances of the offense

The following are aggravating circumstances of the criminal offense:

1. Execute the offense with treachery or fraud. 2. Commit the offense by promise, price or reward. 3. Commit the offense as a means for the commission of another. 4. Taking advantage of massive concentrations, tumult, popular commotion, sporting event or public calamity, phenomenon of nature to execute the offense. 5. Commit the offense with the participation of two or more people. 6. Increase or attempt to increase the harmful consequences of the offense for the victim or any other person. 7. Commit the offense with cruelty against the victim. 8. Committing the offense taking advantage of a situation of superiority in employment, teaching, religion or similar. 9. Taking advantage of the victim's personal conditions that imply defenselessness or discrimination. 10. Make use of children, adolescents, adults or older adults, pregnant women or people with disabilities to commit the offense. 11. Commit the offense to the detriment of girls, boys, adolescents, the elderly, pregnant women or people with disabilities. 12. Committing the offense with violence or using any substance that alters the knowledge or will of the victim. 13. Unduly use insignia, uniforms, denominations or military, police or religious insignia as a means to facilitate the commission of the offense. 14. Affecting several victims because of the offense. 15. Carry out the offense with the help of armed people. 16. Using false credentials, uniforms or badges of institutions or public companies, with the purpose of pretending to be civil servants, civil servants, workers, workers, servants or public servants, as a means to facilitate the commission of the offense. 17. Committing the offense totally or partially from a center of deprivation of liberty for a person interned in it. 18. Finding the perpetrator persecuted or fugitive for a crime with a final conviction. 19. Take advantage of their status as a public servant to commit a crime.

Constitution of Ecuador

Source: http://www.wipo.int/wipolex/en/text.jsp?file_id=443941

Code on Children and Adolescents (Ley No. 100/2003)

Source:

http://www.consultorasdelecuador.com/index.php?option=com_wrapper&view=wrapper&Itemid=56

- Female Genital Mutilation (FGM)/ Female Genital Circumcision
No legal provisions were found.
- Child/Early/Forced Marriage

[Civil Code, Title III of Marriage](#)

Art. 83. Those who have not reached the age of eighteen may not marry without express consent of the person who exercises parental authority.

[Criminal Code of Ecuador](#)

Art. 91.- Trafficking in persons.-

Recruitment, transportation, transfer, delivery, reception for himself or a third party, of one or more persons, either within country or to or from other countries for exploitation purposes, constitutes an offence of human trafficking.

It constitutes exploitation, any activity of which it is a material benefit or an intangible advantage or any other benefit, for itself or for a third party, by subjugating a person or imposing conditions of life or work, obtained from:

1. Illegal removal or marketing of organs, tissues, fluids or material genetic products of living people, including tourism for the donation or transplantation of Organs.
2. Sexual exploitation of persons including forced prostitution, tourism sexual pornography and child pornography.
3. Labour exploitation, including forced labour, debt bondage and child labour.
4. Promise of marriage or union of servile fact, including de facto union arranged, as compensation or transaction, temporary or for purposes of Procreation.
5. Illegal adoption of children and adolescents.
6. Begging.
7. Forced recruitment for armed conflicts or for the commitment of acts punishable by law.
8. Any other form of exploitation.

Art. 106.- Promise of marriage or union of servile fact.

The person who give or promise a person in marriage to marry or union in fact, in exchange for a consideration given to their parents, guardian, or her family or anyone else who exercises authority over her, without that the future spouse or partner or partner has the right to oppose, she will be punished with a custodial sentence of ten to thirteen years.