Brazil

National Child Protection Legislation

National Legislation

• Age of Child: **Child – under 12 years; Adolescent – Between 12 and 18 years of age**

  **Act No. 8.069 – Statute of the Child and Adolescent of 1990** (may also be referred to as “Act No. 8.069 of July 13, 1990)

  **Art. 2**
  For the purposes of this Law, the child is considered as the person who has not yet completed twelve years of age and the adolescent as that between twelve and eighteen years of age.

• Age of Consent: **14 years**

  **Criminal Code**

  **Art. 217-A – Statutory Rape**
  Having sexual intercourse or practicing other lewd acts with a person who is less than 14 (fourteen) years:
  Penalty – imprisonment of 8 (eight) to 15 (fifteen) years.

• Age of Marriage: **16 years**

  **Civil Code**

  **Art. 1.517**
  The man and the woman at the age of sixteen may marry, requiring authorization from both parents or their legal representatives, while not reaching the civilian majority.

  **Art. 1.518**
  Until the wedding celebration, parents, guardians or conservators may revoke the authorization.

  **Art. 1.519**
  The denial of consent, when unfair, can be granted by a judge.

  **Art. 1.520**
  Exceptionally, the marriage of those who have not yet reached the age of marriage (Art. 1517) will be allowed to avoid imposition or fulfillment of criminal penalty or in case of pregnancy.
• **Age of Criminal Responsibility: 18 years**

  **Criminal Code**  
  **Art. 27 – Under eighteen**  
  Children under eighteen (18) years are criminally incompetent and are subject to the rules laid down in special legislation.

  **Act No. 8.069 – Statute of the Child and Adolescent of 1990**  
  **Art. 104**  
  Minors under the age of eighteen, subject to the measures provided for in this Law, are criminally ineligible.

  Sole paragraph. For the purposes of this Law, the age of the adolescent at the date of the fact must be considered.

• **Extraterritoriality**

  **Criminal Code**  
  **Art. 7 – Extraterritoriality**  
  The following are subject to Brazilian law, although committed abroad:

  I - crimes:
  a) against the life or liberty of the President of the Republic;  
  b) against the patrimony or public faith of the Union, Federal District, State, Territory, Municipality, public company, mixed economy society, autarky or foundation instituted by the Public Power;  
  c) against the public administration, by whom it is in its service;  
  d) of genocide, when the agent is Brazilian or domiciled in Brazil;

  II - crimes:
  a) that, by treaty or convention, Brazil was obliged to repress;  
  b) practiced by Brazilian;  
  c) practiced in Brazilian merchant or privately-owned aircraft or vessels, when in foreign territory and there they are not tried there.

  §1 In the cases of item I, the agent is punished according to Brazilian law, even if acquitted or convicted abroad.

  §2 In the cases of subsection II, the application of Brazilian law depends on the following conditions:
  a) the agent entered into the national territory;  
  b) it is punishable also in the country where it was practiced;  
  c) is a crime included among those for which Brazilian law authorizes extradition;  
  d) the person has not been acquitted abroad or has not served his sentence;
e) the agent was not pardoned abroad or, for another reason, the punishment, according to the most favorable law, was not extinguished.

§3 Brazilian law also applies to the crime committed by a foreigner against a Brazilian outside Brazil, if, when the conditions set forth in the previous paragraph are met:
   a) extradition was not sought or refused;
   b) there was a request from the Minister of Justice.

- **Dual Criminality**

  Constitution

  Art. 5

  ...LI - no Brazilian will be extradited, except for a naturalized Brazilian, if requested for a common crime, committed prior to naturalization, or for proven involvement in illicit traffic in narcotics and related drugs, as provided by law.

  Criminal Code

  Art. 8 - Penalty fulfilled abroad
  The sentence served abroad reduces the penalty imposed in Brazil for the same crime, when several, or it is computed, when identical.

  Art. 9 - Effectiveness of foreign judgment
  The foreign judgment, when the application of Brazilian law produces the same consequences, may be approved in Brazil:
  I - to oblige the condemned person to recover damages, restitutions and other civil effects;
  II - to subject it to safety measures.

  Sole Paragraph - The approval depends on:
  a) for the purposes set forth in item I, at the request of the interested party;
  b) for the other purposes, of the existence of an extradition treaty with the country whose judicial authority issued the sentence, or, in the absence of a treaty, a request from the Minister of Justice.

- **Mandatory reporting requirements**

  Constitution of Brazil

  Art. 227

  It is the duty of the family, of society, and of the State to ensure children and adolescents with absolute priority, the right to life, health, food, education, leisure, professional training, culture, dignity, respect, freedom, and family and community life, in addition to safeguarding them against all forms of negligence, discrimination, exploitation, violence, cruelty and oppression.

*The information contained herein should not be construed as offering legal advice or guidance.*
Act No. 8.069 – Statute of the Child and Adolescent of 1990

Art. 11
Full access to health care for children and adolescents through the Unified Health System is ensured, observing the principle of equity in access to actions and services for promotion, protection and recovery of health.

§3 Professionals who work in the daily or frequent care of infants will receive specific and permanent training in the detection of signs of risk for psychological development, as well as the necessary follow-up.

Art. 13
Cases of suspected or confirmed physical punishment, cruel or degrading treatment and ill-treatment against children or adolescents shall be reported to the Guardianship Council of the respective locality, without prejudice to other legal measures.

Art. 56
The principals of primary education establishments will communicate to the Guardian Council the cases of:
I - maltreatment involving its students
II - repetition of unjustified absences and school drop-outs, once school resources are exhausted
III - high levels of repetition

Art. 70
The prevention of the occurrence of a threat or violation of the rights of children and adolescents is everyone’s duty.

Art. 70-A
The Union, the States, the Federal District and the Municipalities must act in an articulated manner in the elaboration of public policies and in the execution of actions aimed at curbing the use of physical punishment or cruel or degrading treatment and spreading non-violent forms of education for children and adolescents, having as main actions:
(The followed numerals listed are all included by Law No. 13.010, of 2014)
I - the promotion of permanent educational campaigns to publicize the right of children and adolescents to be educated and cared for without the use of physical punishment or cruel or degrading treatment and instruments for the protection of human rights;
II - integration with the bodies of the Judiciary, the Public Ministry and the Public Defender, with the Guardianship Council, with the Councils for the Rights of Children and Adolescents and with non-governmental entities that work in the promotion, protection and defense of rights of the child and the adolescent;
III - the continuing education and training of health, education and social care professionals and other agents who work in the promotion, protection and defense of
the rights of children and adolescents for the development of skills necessary for prevention, identification of evidence, the diagnosis and confrontation of all forms of violence against children and adolescents;

IV - support and encouragement of practices for the peaceful resolution of conflicts involving violence against children and adolescents;

V - the inclusion, in public policies, of actions aimed at guaranteeing the rights of children and adolescents, from prenatal care, and activities with parents and guardians in order to promote information, reflection, debate and guidance on alternatives to the use of physical punishment or cruel or degrading treatment in the educational process;

VI - the promotion of local intersectoral spaces for the articulation of actions and the elaboration of joint action plans focused on families in situations of violence, with the participation of health, social assistance and education professionals and promotion, protection, and defense of the rights of children and adolescents.

Sole paragraph – Families with children and teenagers with disabilities will be prioritized in the actions and public policies of prevention and protection.

**Art. 70-B**
The entities, public and private, that work in the areas referred to in art. 71, among others, must have, in their cadres, persons trained to recognize and communicate to the Guardianship Council suspicions or cases of ill-treatment against children and adolescents.

Sole paragraph – Also responsible for the communication referred to in this article are persons entrusted by virtue of their position, function, office, ministry, profession or occupation, care, assistance or custody of children and adolescents, punishable under this Statute, the unjustified delay or omission, culpable or malicious.

**Art. 71**
Children and adolescents have the right to information, culture, leisure, sports, entertainment, shows and products and services that respect their peculiar condition as a person in development.

**Art. 72**
The obligations provided for in this Law do not exclude from special prevention others arising from the principles adopted by it.

**Art. 73**
Failure to comply with the prevention rules will result in the responsibility of the individual or legal entity, under the terms of this Law.
Art. 98
Measures to protect children and adolescents are applicable whenever the rights recognized in this Law are threatened or violated:
I - by action or omission of the company or the State;
II - for lack, omission or abuse of parents or guardian;
III - by reason of their conduct.

Art. 194
The procedure for imposing an administrative penalty for infringement of the norms for the protection of children and adolescents will start by representation of the Public Prosecutor's Office, or of the Guardianship Council, or a notice of infraction prepared by an effective official or accredited volunteer and signed by two witnesses if possible.
§ 1 In the procedure initiated with the notice of infraction, printed formulas may be used, specifying the nature and circumstances of the infraction.
§ 2 Whenever possible, the verification of the infraction will be followed by the drawing up of the report, making sure, if not, of the reasons for the delay.

Art. 195
The defendant will have ten days to present a defense, counting from the date of the summons, which will be made:
I - by the plaintiff, in the record itself, when it is drawn up in the presence of the defendant;
II - by a court official or legally qualified employee, who will deliver a copy of the record or representation to the defendant, or his legal representative, drawing up a certificate;
III - by post, with acknowledgment of receipt, if the defendant or his legal representative is not found;
IV - by notice, within a period of thirty days, if the whereabouts of the defendant or his legal representative are uncertain or not.

Art. 196
If the defense is not presented within the legal period, the judicial authority will examine the records of the Public Ministry, for five days, deciding within the same period.

Art. 197
Once the defense has been presented, the judicial authority will proceed in accordance with the previous article, or, if necessary, will designate an investigation and judgment hearing. (Included by Law No. 12.010 of 2009)

Sole paragraph. Once the oral evidence has been collected, the Public Ministry and the defendant's attorney will respond successively, for a period of twenty minutes each, extendable for another ten, at the discretion of the judicial authority, which will then issue a sentence.
Art. 245
Failure by the doctor, teacher or caretaker responsible for health care and elementary education, preschool or day care, to communicate to the competent authority cases that are known, involving suspicion or confirmation of child abuse or adolescent: Penalty - fine of three to twenty reference salaries, double tax in case of recidivism.

Art. 246
Prevent the person in charge or employee of a service entity from exercising the rights contained in items II, III, VII, VIII and XI of art. 124 of this Law: Penalty - fine from three to twenty reference salaries, doubled in case of recurrence.

Art. 247
To disclose, in whole or in part, without due authorization, by any means of communication, name, act or document of police, administrative or judicial procedure relating to a child or adolescent to whom an infraction is attributed: Penalty - fine from three to twenty reference salaries, doubled in case of recurrence.
§ 1 Whoever displays, in whole or in part, a photograph of a child or adolescent involved in an infraction, or any illustration that concerns him or refers to acts attributed to him, incurs the same penalty, in order to allow his identification, directly or indirectly.
§ 2 If the fact is committed by a press agency or radio or television broadcaster, in addition to the penalty provided for in this article, the judicial authority may determine the apprehension of the publication.

Law No. 13.431, of April 4, 2017

Art. 13
Any person who has knowledge of or witnesses an act or omission, practiced in a public or private place, that constitutes violence against a child or adolescent, has the duty to communicate the fact immediately to the service of receiving and monitoring complaints, to the Guardianship Council or to the police authority, who, in turn, shall immediately inform the Public Prosecutor’s Office/ Public Ministry.

• Statute of Limitations
Law No. 12.650 of May 17, 2012
Alters Decree-Law No. 2,848, of December 7, 1940 - Penal Code, with the purpose of modifying the rules relating to the statute of limitations for crimes committed against children and adolescents.

Art. 111
The statute of limitations, before the final sentence becomes unappealable, begins to run:
...

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V - in crimes against the sexual dignity of children and adolescents, provided for in this Code or in special legislation, from the date on which the victim turns 18 (eighteen) years old, unless at that time criminal action has already been proposed.

Law No. 13.441, of May 8, 2017
Added in as Section VA to Act No. 8.069 – Statute of the Child and Adolescent of 1990 for the infiltration of police agents on the internet for the purpose of investigating crimes against the sexual dignity of children and adolescents.

Art. 190-A
The infiltration of police agents on the internet in order to investigate the crimes provided for in arts. 240, 241, 241-A, 241-B, 241-C, and 241-D of this Law and in arts. 154-A, 217-A, 218, 218-A and 218-B of Decree-Law No. 2,848, of December 7, 1940 (Criminal Code), will comply with the following rules:

...  
III - may not exceed a period of 90 (ninety) days, without prejudice to any renewals, provided that the total does not exceed 720 (seven hundred and twenty) days and its effective need is demonstrated, at the discretion of the judicial authority.

• Obligations of Educational Institutions
Law No. 13.010 of June 26, 2014
Amends Act No. 8.069 – Statute of the Child and Adolescent of 1990 to establish the right of children and adolescents to be educated and cared for without the use of physical punishment or cruel or degrading treatment, and alters Law No. 9.394, of December 20, 1996.

Art. 18-A
Children and adolescents have the right to be educated and cared for without the use of physical punishment or cruel or degrading treatment, as forms of correction, discipline, education, or any other pretext, by parents, extended family members, guardians, by public agents executing socio-educational measures or by any person in charge of taking care of them, treating them, educating them or protecting them.
Sole paragraph. For the purposes of this Law, it is considered:
I - physical punishment: disciplinary or punitive action applied with the use of physical force on the child or adolescent that results in:
   a) physical suffering; or
   b) injury;
II - cruel or degrading treatment: cruel conduct or form of treatment in relation to the child or adolescent who:
   a) humiliate; or
   b) seriously threatens; or
   c) ridicule.

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**Art. 18-B.** Parents, members of the extended family, guardians, public agents implementing socio-educational measures or any person in charge of caring for children and adolescents, treating them, educating them or protecting them who use physical punishment or cruel treatment or degrading as forms of correction, discipline, education or any other pretext will be subject, without prejudice to other applicable sanctions, to the following measures, which will be applied according to the seriousness of the case: I - referral to an official or community family protection program; II - referral to psychological or psychiatric treatment; III - referral to courses or guidance programs; IV - obligation to refer the child to specialized treatment; V - warning.

Sole paragraph. The measures provided for in this article will be applied by the Guardianship Council, without prejudice to other legal measures.

**Act No. 8.069 – Statute of the Child and Adolescent of 1990**

**Art. 56**
The principals of primary education establishments will communicate to the Guardian Council the cases of:
I - maltreatment involving his students;
II - reiteration of unjustified absences and school dropouts, when school resources are exhausted;
III - high levels of repetition.

**Law No. 9.394 of December 20, 1996**

*Establishes the guidelines and bases for national education*

**Art. 12**
The educational establishments, respecting the common norms and those of its educational system, will have the responsibility of:

VIII - notify the Municipal Guardianship Council of the students who present a number of absences above 30% (thirty percent) of the percentage allowed by law;
IX - promote measures to raise awareness, prevent and combat all forms of violence, especially bullying, within schools; ...

**Art. 26**
The curricula of pre-primary, secondary and secondary education must have a common national basis, to be complemented by a diversified part in each school system and in each school establishment, as required by the regional and local characteristics of the school, society, culture, economy and learners.

**§ 9** - Contents relating to human rights and the prevention of all forms of violence against children and adolescents will be included as cross-cutting themes in school curricula in the beginning of this article, with the guideline to **Law No. 8.069, of July 13**, ...

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1990 (Statute of the Child and Adolescent), observing the production and distribution of adequate didactic material.

Law 13.005 of 2014 – Approves the National Education Plan

**Goal 2, Strategy 2.4**
To strengthen the monitoring of the access, permanence and achievement of the beneficiaries of income transfer programs, as well as situations of discrimination, prejudices and violence in the school, aiming to establish adequate conditions for the school success of the students, in collaboration with families and with public agencies of social assistance, health and protection for children, adolescents and youth;

**Goal 3, Strategy 3.8**
To structure and strengthen the monitoring of the access and permanence of the young people who are beneficiaries of income transfer programs in high school in terms of attendance, school use and interaction with the collective, as well as situations discrimination, prejudice and violence, irregular labor exploitation practices, drug use, early pregnancy, in collaboration with families and with public welfare agencies, health and protection of adolescents and youth;

**Goal 4, Strategy 4.9**
Strengthen the monitoring and supervision of access to school and specialized educational services, as well as the permanence and school development of students with disabilities, global developmental disorders and high skills or giftedness, of income transfer programs, together with the fight against discrimination, prejudice and violence, with a view to establishing adequate conditions for educational success, in collaboration with families and public welfare, health and childhood, adolescence and youth;

**Goal 7, Strategy 7.23**
To guarantee policies to combat violence at school, including the development of actions aimed at training educators to detect signs of their causes, such as domestic and sexual violence, favoring the adoption of appropriate measures to promote the construction of a culture of peace and a school environment with security for the community;

- **Prohibition to hold certain positions**
  [Legislative Decree the 2.848](https://example.com)
  **Art. 47**
The penalties of temporary interdiction of rights are:
I - prohibition to exercise a public office, function or activity, as well as an elective mandate;
II - prohibition to exercise a profession, activity or trade that depends on a special qualification, license or authorization from the public authority;
III - suspension of authorization or license to drive a vehicle.

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• **Employment Law**

**Labour Code**

**The Effects of the Termination of the Work Contract**

**Art. 146**

At the termination of the employment contract, whatever its cause, the employee will be paid a simple or double remuneration, as the case may be, corresponding to the vacation period for which the right has been acquired.

Sole Paragraph - Upon termination of employment contract, after 12 (twelve) months of service, the employee, provided that he has not been dismissed for just cause, will be entitled to the remuneration related to the incomplete period of leave, in accordance with art. 130, in the proportion of 1/12 (one twelfth) per month of service or fraction greater than 14 (fourteen) days.

**Art. 147**

An employee who is dismissed without just cause, or whose employment contract expires within a predetermined period, before completing 12 (twelve) months of service, shall be entitled to remuneration for the incomplete period of leave, in accordance with the in the previous article.

**Art. 148**

The remuneration of vacations, even when due after the termination of the employment contract, will have a salary nature, for the purposes of art. 449.

**Art. 482**

The employer is entitled to terminate the employment contract as a just cause
a) act of improbity;
b) conduct incontinence or poor procedure;
c) habitual negotiation on his own account or on his own behalf without permission of the employer, and when it constitutes an act of competition to the company to which the employee works, or is harmful to the service;
d) criminal conviction of the employee, which is final and unappealable, if there has been no suspension of execution of the sentence;
e) depreciation in the performance of their functions;
f) habitual drunkenness or in service;
g) breach of company secrecy;
h) act of indiscipline or insubordination;
i) abandonment of employment;
j) act prejudicial to the honor or good reputation practiced in the service against any person, or physical offenses, under the same conditions, except in case of self-defense, own or others;
k) act prejudicial to the honor or good reputation or physical offenses committed against the employer and hierarchical superiors, except in case of self-defense, own or others;

l) constant practice of games of chance.

m) loss of the qualification or of the requirements established by law for the exercise of the profession, as a result of willful misconduct of the employee. (Included by Law No. 13,467 of 2017)

Sole paragraph - It is also just cause for dismissal of employees to practice, duly proven in administrative investigation, acts that infringe national security.

- Criminal Law - Defamation

Criminal Code

Art. 138 – Slander
Slandering someone, falsely imputing to him a fact defined as a crime:
Penalty - detention, from six months to two years, and fine.
§1 In the same sentence incurs anyone who, knowing falsification of the imputation, propagates it or divulges it.
§2 Slander against the dead is punishable.

Exception of truth
§3 The proof of the truth is admitted, except:
   I - if, being the alleged crime of private action, the offended was not convicted by an unappealable sentence;
   II - if the fact is imputed to any of the persons indicated in number I of art. 141;
   III - if of the imputed crime, although of public action, the offended was acquitted by an unappealable sentence.

Art. 139 – Defamation
To defame someone, imputing him offensive fact to his reputation:
Penalty - detention, from three months to one year, and fine.

Exception of truth
Sole paragraph - The exception of the truth is only admitted if the offended is civil servant and the offense is relative to the exercise of its functions.

Art. 140 – Injury
Injuring someone, by offending his dignity or propriety:
Penalty - detention, from one to six months, or fine.
§1 The judge may stop applying the sentence:
   I - when the offended, in a reprehensible way, directly provoked the injury;
   II - in the case of immediate retaliation, which consists of another injury.
§2 If the injury consists of violence or de facto routes that, by their nature or by the means employed, are considered degrading:
Penalty - detention, from three months to one year, and fine, in addition to the penalty corresponding to the violence.

- **Private Fostering**
  
  *No information was found.*

### Sexual Offenses Against Children

**Criminal Code**

**Art. 149-A - Trafficking in Persons** (included by Law 13344 of 2016)

By means of serious threat, violence, coercion, fraud or abuse, for the purpose of:

- I - remove organs, tissues or parts of the body;
- II - submitting it to work under conditions analogous to slavery;
- III - submit it to any type of servitude;
- IV - illegal adoption; or
- V - sexual exploitation

Penalty - imprisonment, from 4 (four) to 8 (eight) years, and fine.

§1 The penalty is increased by one third to one half if

- I - the crime is committed by a civil servant in the exercise of his functions or under the pretext of exercising them;
- II - the crime is committed against a child, adolescent or elderly person or with a disability;
- III - the agent prevails in relations of kinship, domestic relations, cohabitation, hospitality, economic dependence, authority or hierarchical superiority inherent in the exercise of employment, position or function; or
- IV - the victim of trafficking in persons is removed from the national territory.

§2 The penalty is reduced by one to two thirds if the agent is primary and not integrate criminal organization.

**Art. 213 - Rape**

To coerce someone, through violence or serious threat, to have sexual intercourse or to perform or allow him to practice other lewd acts.

Penalty - imprisonment from 6 (six) to 10 (ten) years.

§1 If the conduct results in bodily injury of a serious nature or if the victim is under eighteen (18) or over fourteen (14) years:

Penalty - imprisonment from 8 (eight) to 12 (twelve) years.

§2 If the conduct results in death:

Penalty - imprisonment from 12 (twelve) to 30 (thirty) years.

**Art. 215 - Sexual violation through fraud**

Have a carnal conjunction or practice another libidinous act with someone, through fraud or other means that prevents or hinders the free manifestation of the victim’s will:

Penalty - imprisonment, from two (2) to six (6) years.

Sole paragraph. If the crime is committed in order to obtain economic advantage, fine also applies.

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Art. 216-A - Sexual harassment
To coerce someone with the intention of gaining advantage or sexual favor, whichever is the agent of superior status or ancestry or inherent in the exercise of employment, position or function.
Penalty - detention from 1 (one) to 2 (two) years.
§2 The penalty is increased by up to a third if the victim is under eighteen (18) years.

Art. 216-B - Unauthorized recording of sexual intimacy
Producing, photographing, filming or recording, by any means, content with nudity or a sexual or lewd act of an intimate and private nature without the participants' permission:
Penalty - detention, from 6 (six) months to 1 (one) year, and fine.
Sole paragraph. In the same sentence, anyone who assembles a photograph, video, audio or any other record in order to include a person in a nudity scene or an intimate sexual or lewd act.

Art. 217-A - Rape of vulnerable
Having sexual intercourse or practicing other lewd acts with a minor of fourteen (14) years:
Penalty - imprisonment from 8 (eight) to 15 (fifteen) years.

Art. 218 - Corruption of minors
Inducing someone under fourteen (14) years to satisfy someone else's lasciviousness.
Penalty - imprisonment from 2 (two) to 5 (five) years.

Art. 218-A - Satisfaction of lasciviousness through presence of child or adolescent
To practice, in the presence of someone under fourteen (14) years of age, or to induce him to witness, a carnal conjunction or other libidinous act, in order to satisfy one's own or another's lewdness:
Penalty - imprisonment, from 2 (two) to 4 (four) years.

Art. 218-B - Favoring prostitution or other sexual exploitation of children or adolescents or vulnerable
To submit, induce or attract to prostitution or another form of sexual exploitation someone under the age of eighteen (18) or who, due to illness or mental deficiency, does not have the necessary discernment to practice the act, to facilitate it, to prevent or hinder abandon.
Penalty - imprisonment, from four (4) to ten (10) years.
§2 - The same penalties shall apply:
I - who practices a carnal or other libidinous act with someone under 18 (eighteen) and greater than 14 (fourteen) years in the situation described in the beginning of this article;
II - the owner, the manager or the person in charge of the place in which the practices referred to in the beginning of this article are verified.
Art. 218-C – Disclosure of scene of rape or scene of rape of vulnerable, sex scene or pornography
Offer, exchange, make available, transmit, sell or exhibit for sale, distribute, publish or divulge, by any means - including by mass communication or computer or telematic system -, photography, video or other audiovisual record containing scene of rape or rape of vulnerable or apologetic or induces their practice, or, without the consent of the victim, sex scene, nudity or pornography:
Penalty - imprisonment, from 1 (one) to 5 (five) years, if the fact does not constitute a more serious crime.
Increase of penalty
§1 The penalty is increased from 1/3 (one third) to 2/3 (two thirds) if the crime is committed by an agent who maintains or has maintained an intimate relation of affection with the victim or for the purpose of revenge or humiliation.
Exclusion of unlawfulness
§2 There is no crime when the agent practices the conduct described in the beginning this article in a journalistic, scientific, cultural or academic publication with the adoption of a resource that makes it impossible to identify the victim, except for prior authorization, if greater than 18 eighteen years.

Art. 227 – Mediation to serve another's lust
Inducing someone to satisfy someone else's lasciviousness:
Penalty - imprisonment of one to three years.
§1 If the victim is older than 14 (fourteen) and under 18 (eighteen) years, or if the agent is your parent, child, spouse or partner, brother, guardian or trustee or person to whom is entrusted for the purpose of education, treatment or custody:
Penalty - imprisonment from two to five years.
§2 If the crime is committed by means of violence, serious threat or fraud:
Penalty - imprisonment of two to eight years beyond the penalty corresponding to violence.
§3 If the crime is committed for the purpose of profit, applies also fine.

Law No. 13.431, of April 4, 2017
Establishes the system of guarantee of rights of the child and adolescent victim or witness of violence and amends Act 8.069 of July 13, 1990.

Art. 2
Children and adolescents enjoy the fundamental rights inherent to the human person, and are afforded the protection integral and the opportunities and facilities to live without violence and to preserve their physical and mental health and their development moral, intellectual and social rights, and enjoy specific rights condition of victim or witness.
Sole paragraph – The Union, the States, the Federal District and Municipalities will develop integrated and coordinated policies aimed at ensure the human rights of children and adolescents in the domestic, family and social relationships, to safeguard them of all forms of neglect, discrimination, exploitation, violence, abuse, cruelty and oppression.

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Art. 3
In the application and interpretation of this Law, the social purpose for which it is intended and, in particular, the peculiar to children and adolescents as developing people, to which the State, the family and society must ensure the enjoyment of fundamental rights with absolute priority.
Sole paragraph – The application of this Law is optional for victims and witnesses of violence between 18 (eighteen) and 21 (twenty one) years, as provided in the sole paragraph of art. 2 of the Law on 8,069, of July 13, 1990 (Statute of the Child and Adolescent).

Art. 4
For the purposes of this Law, without prejudice to the of criminal conduct, are forms of violence:

I - physical violence, understood as the action inflicted on the child or to the adolescent that offends his integrity or bodily health or that causes him physical suffering;

II - psychological violence:

III - sexual violence, understood as any conduct that confines the child or adolescent to practice or witness carnal or any other libidinous act, including exposure of the body in photo or video by electronic means or not, comprising:
  a) sexual abuse, understood as any action that child or adolescent for sexual purposes, whether it be a carnal or another libidinous act, carried out in person or by electronic means, for sexual stimulation of the agent or third party;
  b) commercial sexual exploitation, understood as the use of child or adolescent in sexual activity in return for remuneration or any other form of compensation, independently or under sponsorship, support or encouragement of a third party, whether in person or by electronic means;
  c) trafficking in persons, such as recruitment, transportation, transfer, accommodation or reception of the child or the adolescent, within the national territory or abroad, for the purpose of sexual exploitation, through threat, use of force or other forms of coercion, abduction, fraud, deception, abuse of authority, exploitation of vulnerability or delivery or acceptance payment, among the cases provided for in the legislation;

IV - institutional violence, understood as that practiced by an institution public or contractual, including when it causes revictimization.

§1 For the purposes of this Law, the child and adolescent shall be hearing about the situation of violence through specialized listening and special testimony.

§2 The organs of health, social assistance, education, security and justice will adopt the necessary procedures by spontaneous revelation of violence.

§3 In the case of spontaneous disclosure of violence, the child and the adolescent will be called to confirm the facts in the specified way in paragraph 1 of this article, except in the case of health interventions.

§4 Failure to comply with the provisions of this Law shall application of the penalties provided for in Law 8,069 of July 13, 1990 (Statute of Children and Adolescents).
Constitution of Brazil

Art. 16 – Freedom from exploitation, violence and abuse
1. States Parties shall take all appropriate legislative, administrative, social, educational and other measures to protect persons with disabilities, both within and outside the home, from all forms of exploitation, violence and abuse, including their gender-based aspects.
2. States Parties shall also take all appropriate measures to prevent all forms of exploitation, violence and abuse by ensuring, inter alia, appropriate forms of gender and age-sensitive assistance and support for persons with disabilities and their families and caregivers, including through the provision of information and education on how to avoid, recognize and report instances of exploitation, violence and abuse. States Parties shall ensure that protection services are age-, gender- and disability-sensitive.
3. In order to prevent the occurrence of all forms of exploitation, violence and abuse, States Parties shall ensure that all facilities and programmes designed to serve persons with disabilities are effectively monitored by independent authorities.
4. States Parties shall take all appropriate measures to promote the physical, cognitive and psychological recovery, rehabilitation and social reintegration of persons with disabilities who become victims of any form of exploitation, violence or abuse, including through the provision of protection services. Such recovery and reintegration shall take place in an environment that fosters the health, welfare, self-respect, dignity and autonomy of the person and takes into account gender- and age-specific needs.
5. States Parties shall put in place effective legislation and policies, including women and child-focused legislation and policies, to ensure that instances of exploitation, violence and abuse against persons with disabilities are identified, investigated and, where appropriate, prosecuted.

Art. 227
It is the duty of the family, the society and the State to ensure children and adolescents, with absolute priority, the right to life, health, nourishment, education, leisure, professional training, culture, dignity, respect, freedom and family and community life, as well as to guard them from all forms of negligence, discrimination, exploitation, violence, cruelty and oppression.
§4 The law shall severely punish abuse, violence, and sexual exploitation of children and adolescents.

There is a bill pending approval that was first introduced in 2018. Since 24 March 2021, the status of this bill is awaiting a report from the appointed rapporteur at the Commission for the Defense of Women’s Rights.

Bill PL 9930/2018 (pending)
Criminalizes the disclosure, without consent, of a photo, video or other material related to the intimacy of women, modifying Decree-Law No. 2,848, of December 7, 1940, Penal Code, and...


*The information contained herein should not be construed as offering legal advice or guidance.*
adding the behavior to the protection plan of the system of combating violence against women, of Law No. 11.340, of August 7, 2006.

Act No. 8.069 – Statute of the Child and Adolescent of 1990

Art. 240
Producing, reproducing, directing, photographing, filming or recording, by any means, an explicit or pornographic sex scene, involving a child or adolescent:
Penalty - imprisonment, from 4 (four) to 8 (eight) years, and fine.
§1 The same penalties shall be imposed on any person who facilitates, recruits, coerces, or in any way mediates the participation of a child or adolescent in the scenes referred to in the beginning of this article, or even those with such agreements.
§2 The penalty is increased by 1/3 (one third) if the agent commits the crime:
I - in the exercise of public office or function or under the pretext of exercising it;
II - prevailing in domestic relations, cohabitation or hospitality; or
III - prevailing from relations of kinship or affinity to the third degree, or by adoption, of guardian, healer, tutor, employer of the victim or who otherwise has authority over it, or with their consent.

Art. 241
Selling or exposing to the sale of a photograph, video or other record that contains an explicit or pornographic sex scene involving a child or adolescent:
Penalty - imprisonment, from 4 (four) to 8 (eight) years, and fine.

Art. 241-A
Offer, exchange, make available, transmit, distribute, publish or disclose by any means, including by computer system or telematics, photography, video or other record that contains explicit sex scenes or pornography involving children or adolescents:
Penalty - imprisonment, from 3 (three) to 6 (six) years, and fine.
§1 The same penalty will be incurred by anyone who:
I - provides the means or services for the storage of the photographs, scenes or images noted in the beginning of this article;
II - provides, by any means, the access by computer network to the photographs, scenes or images noted in the beginning of this article.
§2 The conduct typified in items I and II of §1 of this article are punishable when the legal guardian for the service has been officially notified, fails to disable access to illegal content referred to in the beginning of this article.

Art. 241-B
Acquire, possess or store, by any means, photograph, video or other form of record that contains an explicit or pornographic sex scene involving a child or adolescent:
Penalty - imprisonment, from 1 (one) to 4 (four) years, and fine.
§1 The penalty is reduced by one (1) 2/3 (two thirds) are small amount of material referred to in the beginning of the article.
§2 No crime is the possession or storage is intended to provide the competent authorities the occurrence of the acts described in articles. 240, 241, 241-A and 241-C of this Law, when the communication is made by:
I - public agent in the performance of his duties;
II - legally constituted member of entity, including, among its institutional purposes, the receipt, processing and forwarding of news of the crimes referred to in this paragraph;
III - legal representative and responsible officials of access provider or service provided through a computer network, until receipt of the material related to the news made to the police authority, the Public Prosecutor’s Office or the Judiciary.

§3 Persons referred to in §2 of this article shall keep confidential the said infringing material.

Art. 241-C
Simulate the participation of a child or adolescent in a sexually explicit or pornographic scene through adulteration, assembly or modification of a photograph, video or any other form of visual representation:
Penalty - imprisonment, from 1 (one) to 3 (three) years, and fine.
Sole paragraph – Anyone who sells, exhibits, sells, makes available, distributes, publishes or divulges by any means, acquires, possesses or stores the material produced in the form noted in the beginning of this article.

Art. 241-D
Entice, harass, instigate or coerce, by any means of communication, a child, with the purpose of practicing a libidinous act:
Penalty - imprisonment, from 1 (one) to 3 (three) years, and fine.
Sole paragraph – In the same penalties incurs who:
I - facilitates or induces access to the child of material containing explicit or pornographic sex for the purpose of practicing libidinous act;
II - practices the behaviors described in the beginning of this article in order to induce a child to exhibit in a pornographic or sexually explicit way.

Art. 241-E
For the purpose of the crimes contemplated in this Law, the term "explicit or pornographic sex scene" includes any situation involving a child or adolescent in explicit or simulated real sexual activity or display of the genital organs of a child or adolescent for primarily sexual purposes.

- Female Genital Mutilation (FGM)/ Female Genital Circumcision
  No legal provisions were found.

- Child/Early/Forced Marriage
  Civil Code
  Art. 1.517
The man and the woman at the age of sixteen may marry, requiring authorization from both parents or their legal representatives, while not reaching the civilian majority.

**Art. 1.518**
Until the wedding celebration, parents, guardians, or conservators may revoke the authorization.

**Art. 1.519**
The denial of consent, when unfair, can be granted by a judge.

**Art. 1.520**
Exceptionally, the marriage of those who have not yet reached the age of marriage (Art. 1517) will be allowed to avoid imposition or fulfillment of criminal penalty or in case of pregnancy.

- **Human Trafficking**
  - **Law No. 13.344 of October 6, 2016**
  - **Art. 13.** Decree-Law No. 2.848, of December 7, 1940 (Criminal Code), becomes effective with the addition of the following art. 149-A:

  **Trafficking in Persons**
  - **Art. 149-A**
    Agency, entice, recruit, transport, transfer, buy, accommodate or receive a person, through serious threat, violence, coercion, fraud or abuse, for the purpose of:
    I - remove organs, tissues or parts of the body;
    II - submit them to work in conditions analogous to slavery;
    III - submit it to any type of servitude;
    IV - illegal adoption; or
    V - sexual exploitation.

  Penalty - imprisonment, from 4 (four) to 8 (eight) years, and fine.
  
  § 1 The penalty is increased from a third to a half if:
  I - the crime is committed by a public official in the exercise of their functions or on the pretext of exercising them;
  II - the crime is committed against a child, adolescent or elderly or disabled person;
  III - the agent takes advantage of family relationships, domestic, cohabitation, hospitality, economic dependence, authority or hierarchical superiority inherent to the exercise of employment, position or function; or
  IV - the victim of human trafficking is removed from the national territory.

  § 2 The penalty is reduced from one to two thirds if the agent is primary and does not belong to a criminal organization.
**Law No. 12.015 of August 7, 2009**

Changes the [Special Part Title VI of Decree-Law 2.848, of December 7, 1940 - Penal Code](#) and [Art. 1 the Law No. 8.072, of July 25, 1990](#), which provides for the heinous crimes, under item [XLIII of Art. 5 the Federal Constitution](#) and repealing the law No. the 2252, 1 the July 1954, which dealt with corruption of minors.

International human trafficking for the purpose of sexual exploitation

**Art. 231**

To promote or facilitate the entry into national territory of someone who may engage in prostitution or other form of sexual exploitation there, or the exit of someone who is going to exercise it abroad.

Penalty - Imprisonment, from three (3) to eight (8) years

§ 1 The same penalty applies to those who arrange, entice or buy the trafficked person, as well as, having knowledge of this condition, transporting, transferring or housing them

§ 2 The penalty is increased by half if:

I - the victim is under 18 (eighteen) years of age;

II - the victim, due to illness or mental deficiency, does not have the necessary discernment to perform the act;

III - if the agent is ascendant, stepfather, stepmother, brother, stepson, spouse, partner, guardian, tutor or employer of the victim, or if he assumed, by law or otherwise, an obligation of care, protection or surveillance; or

IV - there is use of violence, serious threat or fraud.

§ 3 If the crime is committed in order to obtain economic benefit, applies also fine