



STATUTE OF THE CHILD AND ADOLESCENT

Statute
of the Child
and Adolescent



Statute of the Child and Adolescent

Federative Republic of Brazil

Federative Republic of Brazil

President Fernando Collor de Mello

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Press Secretary
Presidency of the Republic

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CONTENTS

BOOK I

Generic • 13

TITLE I

Preliminary Provisions • 13

TITLE II

Fundamental Rights • 15

CHAPTER I

The Right to Life and Health • 15

CHAPTER II

The Right to Freedom, Respect and Dignity • 17

CHAPTER III

The Right to Family and Community Life • 18

SECTION I

General Provisions • 18

SECTION II

The Natural Family • 19

SECTION III

The Foster Family • 19

SUBSECTION I

General Provisions • 19

SUBSECTION II

Custody • 20

SUBSECTION III

Guardianship • 21

SUBSECTION IV

Adoption • 22

CHAPTER IV

The Right to Education, Culture, Sports Practice and
Leisure • 26

CHAPTER V

The Right to Vocational Training and Protection at
Work • 28

TITLE III

Prevention • 31

CHAPTER I

General Provisions • 31

CHAPTER II

Special Prevention • 31

SECTION I

Information, Culture, Leisure, Sports,
Entertainment and Shows • 31

SECTION II

Products and Services • 33

SECTION III

Authorization to Travel • 34

BOOK II

Special Part • 35

TITLE I

Enforcement Policy • 35

CHAPTER I

General Provisions • 35

CHAPTER II

Enforcement Entities • 36

SECTION I

General Provisions • 36

SECTION II

Inspection of the Entities • 40

TITLE II

Protection Measures • 43

CHAPTER I

General Provisions • 43

CHAPTER II

Specific Protection Measures • 43

TITLE III

The Practice of Infractions • 45

CHAPTER I

General Provisions • 45

CHAPTER II

Individual Rights • 45

CHAPTER III

Procedural Guaranties • 46

CHAPTER IV

Socioeducational Measures • 47

SECTION I

General Provisions • 47

SECTION II

Admonition • 48

SECTION III

The Obligation to Repair Damage • 48

SECTION IV

The Rendering of Services to the
Community • 48

SECTION V

Assisted Freedom • 49

SECTION VI

The System of Semiliberty • 49

SECTION VII

Internment • 50

CHAPTER V

Remission • 52

TITLE IV

Measures Pertinent to Parents or Guardian • 55

TITLE V

The Council of Guardianship • 57

CHAPTER I

General Provisions • 57

CHAPTER II

Duties of the Council • 58

CHAPTER III

Authority • 59

CHAPTER IV

The Choice of Councillors • 59

CHAPTER V

Impediments • 59

TITLE VI

Access to Justice • 61

CHAPTER I

General Provisions • 61

CHAPTER II

Juvenile Courts • 62

SECTION I

General Provisions • 62

SECTION II

The Judge • 62

SECTION III

Auxiliary Services • 65

CHAPTER III

Proceedings • 66

SECTION I

General Provisions • 66

SECTION II

Loss and Suspension of Paternal Power • 66

SECTION III

Removal of Guardianship • 68

SECTION IV

Placement in a Forster Family • 69

SECTION V

Investigation of the Infraction Attributed to an Adolescent • 70

SECTION VI

Verification of Irregularities in an Assistance Entity • 77

SECTION VII

Verification of Administrative Infractions of the Norms of Protection of the Child and Adolescent • 78

CHAPTER IV

Appeals • 79

CHAPTER V

The Office of the Attorney General • 80

CHAPTER VI

The Lawyer • 84

CHAPTER VII

Judicial Protection of Individual, *de Facto* and Collective Rights • 85

TITLE VII

Crimes and Administrative Infractions • 91

CHAPTER I

Crimes • 91

SECTION I

General Provisions • 91

SECTION II

Crimes in General • 91

CHAPTER II

Administrative Infractions • 95

FINAL AND TRANSITORY PROVISIONS • 99

Law no. 8,069,
July 13, 1990

Treats of the Statute of the Child
,and Adolescent, and takes other measures.

THE PRESIDENT OF THE REPUBLIC

I hereby make it known that the National Congress
decrees and I sanction the following Law:

BOOK I

Generic

Title I

Preliminary Provisions

Art. 1. This Law treats of the full protection of the child and adolescent.

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.

Paragraph. In the cases specified in Law, this Statute applies exceptionally to persons between eighteen and twenty-one years of age.

Art. 3. Without prejudice to the full protection treated of in this Law, the child and adolescent enjoy all the fundamental rights inherent to the human person and, by law or other means, are ensured of all opportunities and facilities so as to entitle them to physical, mental, moral, spiritual and social development, in conditions of freedom and dignity.

Art. 4. It is the duty of the family, community, society in general and the public authority to ensure, with absolute priority, effective implementation of the rights to life, health, nutrition, education, sports, leisure, vocational training, culture, dignity, respect, freedom and family and community living.

Paragraph. The guaranty of priority encompasses:

a) precedence in receiving protection and aid in any circumstances;

b) precedence in receiving public services and those of public relevance;

c) preference in the formulation and execution of public social policies;

d) privileged allocation of public resources in areas related to the protection of infancy and youth.

Art. 5. No child or adolescent will be subject to any form of negligence, discrimination, exploitation, violence, cruelty and oppression, and any violation of their fundamental rights, either by act or omission, will be punished according to the terms of the Law.

Art. 6. The social ends towards which this Law is directed, the requirements of the common good, individual and collective rights and duties, and the peculiar condition of children and adolescents as persons in development will be given due consideration in construing this Law.

Title II

Fundamental Rights

Chapter I

The Right to Life and Health

Art. 7. The child and adolescent have the right to protection of life and health, through effective implementation of public social policies that make possible birth and healthy and harmonious development in dignified conditions of existence.

Art. 8. Through the Unified System of Health, prenatal and perinatal care is ensured to pregnant women.

Paragraph 1. The pregnant woman will be directed to the different levels of service on the basis of specific medical criteria, with due observance of the regional and hierarchical principles of the System.

Paragraph 2. The parturient will be treated preferentially by the same medical doctor who cared for her in the prenatal stage.

Paragraph 3. It is the duty of the public authority to provide nutritional support to those pregnant women and wet nurses in need of the same.

Art. 9. The public authority, institutions and employers will provide facilities suited to maternal breast-feeding, including the children of mothers subject to legal privation of freedom.

Art. 10. Hospitals and other public and private institutions that deal with the health of pregnant women are obligated:

I — to maintain for a period of eighteen years records in individual files of the activities carried out;

II — to identify the newborn through registration of his foot and fingerprint and fingerprint of the mother, without prejudice to the other forms defined by the proper administrative authority;

III — to proceed to examinations aimed at diagnosis and therapeutics of abnormalities in the metabolism of the newborn, as well provide orientation to parents;

IV — to supply birth declarations in which occurrences during birth and the development of the newborn are necessarily stated;

V — to maintain joint accommodations making it possible for the newborn and mother to remain together.

Art. 11. Through the Unified System of Health, medical care is ensured to the child and adolescent, while universal and equal access to actions and services aimed at fostering, protecting and recovering health is guaranteed.

Paragraph 1. Children and adolescents who are bearers of disabilities will receive special treatment.

Paragraph 2. It is the duty of the public authority to provide medicines, prostheses and other resources related to treatment, habilitation and rehabilitation free of charge to those in need of such.

Art. 12. In cases of the internment of the child or adolescent, health institutions should provide conditions for one of the parents or the guardian to remain full-time with him.

Art. 13. Without prejudice to other legal measures, cases involving suspicion or confirmation of maltreatment of children or adolescents will obligatorily be notified to the Council of Guardianship of the respective locality.

Art. 14. The Unified System of Health will promote programs of medical and dental assistance for prevention of

the infirmities that normally affect the young population, together with campaigns of health education for parents, educators and students.

Paragraph. In the cases recommended by health authorities, vaccination of children is obligatory.

Chapter II

The Right to Freedom, Respect and Dignity

Art. 15. The child and adolescent have the right to freedom, respect and dignity as human beings in the process of development and as the subjects of civil, human and social rights guaranteed by the Constitution and in law.

Art. 16. The right to freedom encompasses the following aspects:

I — going, coming and remaining in public places and community spaces, except as determined by legal restrictions;

II — opinion and expression;

III — belief and religious practice;

IV — play, sports practice and entertainment;

V — participation in family and community life, without discrimination;

VI — participation in political life, according to the terms of the law;

VII — seeking refuge, aid and guidance.

Art. 17. The right to respect consists of the inviolability of the physical, psychic and moral integrity of the child and adolescent, encompassing the preservation of the image, identity, autonomy, values, ideas and beliefs, personal spaces and objects.

Art. 18. It is the duty of all to watch over the dignity of the child and adolescent, preserving them from any inhuman, violent, terrorizing, vexing or coercive treatment.

Chapter III

The Right to Family and Community Life

Section I

General Provisions

Art. 19. Every child or adolescent has the right to be raised and educated in the midst of his family and, exceptionally, in a foster family, in such a way as to ensure family and community life in an environment free of the presence of persons dependent on narcotic substances.

Art. 20. Issue, whether or not born in wedlock, or by adoption shall have the same rights and qualifications, all discriminatory references to filiation being prohibited.

Art. 21. Under equal conditions, paternal power may be exercised by the father and by the mother in the manner determined by civil legislation and, in the case of disagreement, both shall be assured of the right to resort to the proper judicial authority to resolve the divergence.

Art. 22. It is the duty of parents to provide support, custody and education to underage children and, in the interest of such children, it is also their obligation to comply and see to compliance with judicial decisions.

Art. 23. The lack or shortage of material resources is not sufficient reason for the loss or suspension of paternal power.

Paragraph. If there is no other reason which, in itself, authorizes decreeing of the measure, the child or adolescent will be maintained in his original family, which should obligatorily be included in government aid programs.

Art. 24. Loss and suspension of paternal power will be decreed judicially in contested proceedings in those cases specified in civil legislation, as well as in the case of

unjustified noncompliance of the duties and obligations referred to in art. 22.

Section II

The Natural Family

Art. 25. The natural family is understood as the community formed by the parents or either one of them and their descendants.

Art. 26. No matter what the origin of the filiation, issue born out of wedlock may be acknowledged jointly or separately by the parents on the birth certificate itself, by will, through title or other public document.

Paragraph. The acknowledgement may precede the birth of the issue or occur after demise if there are descendants.

Art. 27. Acknowledgement of the state of filiation is a personal, inalienable and unprescribable right and may, with no restrictions and due observance of judicial secrecy, may be enforced against the parents or heirs.

Section III

The Foster Family

Subsection I

General Provisions

Art. 28. Placement in a foster family will be effected through custody, guardianship or adoption, independently of the legal situation of the child or adolescent according to the terms of this Law.

Paragraph 1. Whenever possible, the child or adolescent will be previously heard and his opinion will be duly considered.

Paragraph 2. In judging the request, the degree of the relationship and the relations of affinity or affectivity will be considered, so as to avoid or minimize the consequences of the measure.

Art. 29. Placement in a foster family will not be granted in the case of a person who, in any way whatsoever, demonstrates incompatibility with the nature of the measure or does not offer a suitable family environment.

Art. 30. Placement in a foster family will not permit transfer of the child or adolescent to third parties or to government or nongovernment entities, without judicial authorization.

Art. 31. Placement in a foreign foster family is an exceptional measure and is only permissible in the case of adoption.

Art. 32. On assuming custody or guardianship, the person responsible will take on the commitment to perform the charge well and faithfully, according to the terms of a statement included in the records.

Subsection II

Custody

Art. 33. Custody implies the obligation to render material, moral and educational assistance to the child or adolescent, and grants the custodian the right to oppose third parties, including the parents.

Paragraph 1. Custody has the purpose of normalizing de facto possession and, except in the case of adoption by foreigners, may be granted in a preliminary or incidental manner in guardianship or adoption proceedings.

Paragraph 2. By way of exception, custody will be granted in cases that do not involve guardianship and

adoption, to meet the needs of peculiar situations or to offset the possible absence of the parents or guardian, it being permitted to grant the right of representation to practice specific acts.

Paragraph 3. For all legal purposes and effects, including social security, custody confers upon the child or adolescent the condition of dependent.

Art. 34. Through legal assistance, fiscal incentives and subsidies, the public authority will encourage the sheltering of orphaned or abandoned children.

Art. 35. Custody may be revoked at any time whatsoever by a well-founded judicial act, once the Office of the Attorney General has been duly heard.

Subsection III

Guardianship

Art. 36. According to the terms of civil law, guardianship will be granted in the case of persons who have not yet completed twenty-one years of age.

Paragraph. Granting of guardianship presupposes the prior decree of loss or suspension of paternal power and necessarily implies the duty of custody.

Art. 37. Whenever the ward does not possess properties or earnings or for any other pertinent reason, the specific legal mortgage deed will be dispensed with.

Paragraph. The specific legal mortgage deed will also be dispensed with if the properties, which may exist in the name of the ward, are stated in a public instrument duly registered in the office of property records, or if the earnings are sufficient only for the maintenance of the ward, with no significant or probable remaining amounts.

Art. 38. The provision in art. 24 applies to the removal of guardianship.

Subsection IV

Adoption

Art. 39. Adoption of a child or adolescent will be governed by the provision in this Law.

Paragraph. Adoption by power of attorney is prohibited.

Art. 40. Unless already under the custody or guardianship of the adopting party, the party being adopted must be no more than eighteen years of age at the time of the request.

Art. 41. The adoption attributes the condition of issue to the adoptee, with the same rights and duties, including rights of succession, releasing the adoptee from any bond with parents or relatives, except matrimonial impediments.

Paragraph 1. If one of the spouses or concubines adopts the issue of the other, the bonds of filiation between the adoptee and the spouse or concubine of the adopting party and the respective relatives are maintained.

Paragraph 2. The right of succession between the adoptee, his descendants, the adopting party, his ascendants, descendants and collateral relations up to the 4th degree is reciprocal, with due observance of the order of the line of heredity.

Art. 42. Independently of their marital state, persons of more than twenty-one years of age may adopt.

Paragraph 1. They may not adopt ascendants and siblings of the adopting party.

Paragraph 2. Adoption by both spouses or concubines may be formalized, provided that one of them has completed twenty-one years of age and family stability has been corroborated.

Paragraph 3. The adopting party must be at least sixteen years older than the party being adopted.

Paragraph 4. Parties who have been divorced or legally separated may adopt jointly provided that they agree as to the custody and system of visits and provided further that the trial period of family life began during the permanence of the conjugal society.

Paragraph 5. Adoption may be granted to the adopting party who, after an unmistakable manifestation of willingness, deceases during the course of the proceedings, before sentence is rendered.

Art. 43. The adoption will be granted when founded upon legitimate motives and when there are real advantages for the party being adopted.

Art. 44. The guardian or custodian may not adopt the ward or custodied party, unless he has been able to fulfill his duties of administration and achieve its objectives.

Art. 45. Adoption depends on the consent of the parents or legal representative of the party being adopted.

Paragraph 1. Consent will be dispensed with in the case of the child or adolescent whose parents are unknown or who have been deprived of paternal power.

Paragraph 2. In cases in which the party being adopted is more than twelve years of age, his consent will also be necessary.

Art. 46. The adoption will be preceded by a trial period of common living with the child or adolescent with duration to be determined by the judicial authority, with due observance of the peculiarities of the case.

Paragraph 1. The trial period of common living may be dispensed with if the party being adopted is not more than one year of age or, independently of his age, if he has been in the company of the adopting party for a period of time sufficient to evaluate the convenience of constituting the bond.

Paragraph 2. In the case of adoption by foreigners resident and domiciled abroad, the trial period of common living to be completed within the national territory will be a minimum of fifteen days in the case of children of up to two years of age, and a minimum of thirty days when the party being adopted is more than two years of age.

Art. 47. The adoption bond is constituted by judicial decision that will be recorded in the civil registry by a writ for which certificates will not be provided.

Paragraph 1. The record will state the name of the adopting parties as parents, as well as the name of their ascendants.

Paragraph 2. The judicial writ that will be filed will cancel the original record of the adoptee.

Paragraph 3. No observation as to the origin of the act may be stated in the certificates of registration.

Paragraph 4. At the discretion of the judicial authority, a certificate may be supplied for purposes of protection of rights.

Paragraph 5. The sentence will grant to the adoptee the name of the adopting party and, at the request of the latter, may alter the forename.

Paragraph 6. The adoption produces its due effects as of the final sentence, except in the case specified in art. 42, paragraph 5, in which case the sentence will have retroactive effect to the date of the obit.

Art. 48. Adoption is irrevocable.

Art. 49. The demise of the adopting parties does not re-establish the paternal power of the natural parents.

Art. 50. In each judicial district or regional jurisdiction, the judicial authority will maintain a record of the children and adolescents in condition to be adopted and another of those persons interested in adopting.

Paragraph 1. Inclusion in the record will be effected after prior consultation with the technical organs of the court, after the Office of the Attorney General has been duly heard.

Paragraph 2. Inclusion in the record will not be effected if the interested party does not satisfy the legal requirements or if any of the cases specified in art. 29 is found to exist.

Art. 51. In treating of an adoption request formulated by a foreigner resident and domiciled abroad, the provision in art. 31 will be observed.

Paragraph 1. By means of a document issued by the proper authority of his respective domicile, the candidate should corroborate that he is duly qualified for the adoption, according to the laws of his own country, as well as present a psychosocial study elaborated by a specialized and accredited agency in the country of origin.

Paragraph 2. By written notification or at the request of the Office of the Attorney General, the judicial authority may require presentation of the pertinent text of the foreign legislation, together with proof of its validity.

Paragraph 3. The documents in a foreign language will be included with the records, duly authenticated by the consular authority and with due observance of international treaties and conventions, and accompanied by the respective translation by a certified public translator.

Paragraph 4. Departure of the party being adopted from the national territory will not be permitted before consummation of the adoption.

Art. 52. International adoption may be conditioned to a prior study and analysis by a state judicial adoption commission, which will supply the respective qualification report to be included in the appropriate process.

Paragraph. It will be the responsibility of the commission to maintain a centralized record of foreign parties interested in adoption.

Chapter IV

The Right to Education, Culture, Sports Practice and Leisure

Art. 53. The child and adolescent have the right to education, with the objective of the full development of their person, preparation for the exercise of citizenship and qualification for work, and they are ensured of the following:

I — equality of conditions for access and permanence in school;

II — the right to be respected by their educators;

III — the right to contest criteria of evaluation, together with the right to appeal to higher educational jurisdiction;

IV — the right to organize and participate in student entities;

V — access to a public school near his residence and free of charge.

Paragraph. It is the right of parents and guardians to be informed of the pedagogical process, as well as to participate in the definition of educational proposals.

Art. 54. It is the duty of the State to ensure to the child and adolescent:

I — basic, obligatory and free education, including for those who did not have access to education at the proper age;

II — progressive extension of the obligatory and gratuitous nature to secondary education;

III — specialized educational services for bearers of disabilities, preferably within the normal educational network;

IV — educational services in day-care and preschool centers for children from zero to six years of age;

V — access to the higher levels of education, research and artistic creation, according to the capacity of each;

VI — providing of regular nighttime education suited to the conditions of the working adolescent;

VII — rendering of basic education through supplementary programs of didactic-school material, transportation, nourishment and health assistance.

Paragraph 1. Access to obligatory and gratuitous education is a subjective public right.

Paragraph 2. Should obligatory education not be offered by the public authority or should the rendering of such be irregular, this fact implies liability on the part of the proper authority.

Paragraph 3. It is the duty of the public authority to carry out a census of the student population at the basic education level, convoke them and, together with parents or guardians, see to their attendance at school.

Art. 55. Parents or guardians have the obligation to enroll their children or wards in the regular educational network.

Art. 56. The directors of institutions of basic education will notify the Council of Guardianship of cases involving:

I — maltreatment involving their students;

II — repetition of unjustified absences and school evasion, once the resources available to the school have been exhausted;

III — high levels of repetition.

Art. 57. The public authority will encourage research, experiments and new proposals with regard to the calendar, division of grades, curricula, methodology, didactics and evaluation so as to include the children and adolescents excluded from obligatory basic education.

Art. 58. In the educational process, the cultural, artistic and historical values specific to the social context of the child and adolescent will be respected and they shall be ensured of freedom of creation and access to the sources of culture.

Art. 59. With the support of the states and Federal Government, the municipalities will encourage and facilitate the directing of resources and spaces to cultural, sports and leisure programs oriented to childhood and youth.

Chapter V

The Right to Vocational Training and Protection at Work

Art. 60. Work is prohibited to minors of less than fourteen years of age, except as apprentices.

Art. 61. Without prejudice to the provision in this Law, protection to the work of adolescents is regulated by special legislation.

Art. 62. Learning is considered as the technical-professional training administered according to the guidelines and bases of the educational legislation in effect.

Art. 63. Technical-professional training will obey the following principles:

I — guaranty of access and obligatory attendance at regular education;

II — activity compatible with the development of the adolescent;

III — special schedule for the exercise of the activities.

Art. 64. Apprentice scholarships are ensured to the adolescent of up to fourteen years of age.

Art. 65. Labor and social security rights are ensured to the adolescent-apprentice of more than fourteen years of age.

Art. 66. The adolescent bearer of a disability is ensured of protected work.

Art. 67. The following types of work are prohibited to employed adolescents, apprentices, those working in a family labor system, students of technical schools, those assisted in governmental and nongovernmental entities:

I — night work, between 10:00 PM of one day and 05:00 AM of the following day;

II — dangerous, unhealthy or heavy work;

III — work in areas prejudicial to their formation and physical, psychic, moral and social development;

IV — work according to schedules and in localities that make school attendance impossible.

Art. 68. The social program that is based on educational work under the responsibility of a governmental entity or nonprofit nongovernmental entity should ensure the participating adolescent of the conditions for preparation for the exercise of regular paid activity.

Paragraph 1. Educational work is understood as the labor activity in which the pedagogical demands related to the personal and social development of the person being educated prevail over the productive aspect.

Paragraph 2. The pay that the adolescent receives for the work performed or participation in the sale of the products of his work do not mar the educational character.

Art. 69. The adolescent has the right to vocational training and protection at work, with due observance of the following aspects, among others:

I — respect for the specific conditions of the person in development;

II — vocational training suited to the labor market.

Title III

Prevention

Chapter I

General Provisions

Art. 70. It is the duty of all to prevent the occurrence of threats or violation of the rights of the child and adolescent.

Art. 71. The child and adolescent have the right to information, culture, leisure, sports, entertainment, shows and products and services that respect the specific condition of persons in development.

Art. 72. The obligations specified in this Law do not exclude others consequent upon the principles herein adopted for special prevention.

Art. 73. Nonobservance of the prevention norms will, according to the terms of this Law, imply liability of the individual or legal entity.

Chapter II

Special Prevention

Section I

Information, Culture, Leisure, Sports, Entertainment and Shows

Art. 74. Acting through the proper organ, the public authority will regulate public entertainment and shows and,

with respect to their nature, will inform as to the age brackets for which they are not advisable and the locations and schedules in which their presentation is not suitable.

Paragraph. Those responsible for public entertainment and shows should, in a visible and easily accessible place at the entrance to the site of exhibition, present highly visible information as to the nature of the show and the age bracket specified in the certificate of classification.

Art. 75. Every child or adolescent shall have access to the public entertainment and shows classified as suitable to his age bracket.

Paragraph. Children of less than ten years of age may only enter and remain in localities of presentations or exhibitions when accompanied by their parents or guardian.

Art. 76. Radio and television stations may only exhibit educational, artistic, cultural and informative programs in the schedule recommended for the juvenile population.

Paragraph. No show will be presented or announced without notification as to its classification, before its transmission, presentation or exhibition.

Art. 77. The proprietors, directors, managers and employees of companies that operate in the sale or rental of video program tapes will see to it that sales or rentals are not effected in disagreement with the classification attributed to such material by the proper organ.

Paragraph. The tapes to which this article refers should include information on their packaging as to the nature of the work and the age group to which they are directed.

Art. 78. Magazines and publications containing material that is improper or inadequate for children and adolescents should be marketed in sealed packaging, with a warning as to the content.

Paragraph. The publishers will see to it that covers containing pornographic or obscene messages be protected by opaque packaging.

Art. 79. The magazines and publications aimed at the juvenile population may not contain illustrations, photographs, captions, stories or publicity of alcoholic beverages, tobacco, weapons and ammunition and should respect the ethical and social values of the person and family.

Art. 80. Those responsible for establishments that commercialize operations with billiards, pool and like games or gaming shops, understood as those that effect bets even when this is only an occasional activity, will see to it that the entry and permanence of children and adolescents is not permitted in the locality and will exhibit warnings for purposes of orienting the public.

Section II

Products and Services

Art. 81. Sale of the following to children or adolescents is prohibited:

- I — weapons, ammunition and explosives;
- II — alcoholic beverages;
- III — products containing ingredients that can cause physical or psychic dependence even when used improperly;
- IV — fireworks and like products, except those which, due to their reduced potential, are incapable of causing physical damage in the case of improper use;
- V — magazines and publications referred to in art. 78;
- VI — lottery tickets and the like.

Art. 82. The lodging of children or adolescents in hotels, motels, hostelryes or like establishments is prohibited,

unless authorized or accompanied by the parents or guardian.

Section III

Authorization to Travel

Art. 83. Without express judicial authorization, no child may travel outside of the judicial district in which he resides when not accompanied by parents or guardian.

Paragraph 1. Authorization will not be required:

a) when travelling to a judicial district contiguous to that of his residence in the same federative unit or when it is included in the same metropolitan region;

b) when the child is accompanied:

1) by an ascendant or collaterally related adult, up to the third degree, when such a relationship is corroborated by documentary evidence;

2) by an adult expressly authorized by the father, mother or guardian.

Paragraph 2. At the request of the parents or guardian, the judicial authority may grant authorization that is valid for two years.

Art. 84. In the case of travel abroad, the authorization may be dispensed with when the child or adolescent:

I — is accompanied by both parents or the guardian;

II — is travelling in the company of one of the parents, with the express authorization of the other stated in a document with the officially recognized signature of the other.

Art. 85. Without prior and express judicial authorization, no child or adolescent born in the national territory may leave the country in the company of a foreigner resident or domiciled abroad.

BOOK II

Special Part

Title I

Enforcement policy

Chapter I

General Provisions

Art. 86. The policy of enforcing the rights of the child and adolescent will be implemented through a coordinated complex of governmental and nongovernmental actions of the Federal Government, states, Federal District and municipalities.

Art. 87. The lines of enforcement policy are as follows:

- I — basic social policies;
- II — social assistance policies and programs of a supplementary nature for those in need of such;
- III — special services of prevention and medical and psychosocial services to the victims of negligence, maltreatment, exploitation, abuse, cruelty and oppression;
- IV — service of identification and localization of disappeared parents, guardians, children and adolescents;
- V — juridical-social protection by entities involved in the defense of the rights of children and adolescents.

Art. 88. The guidelines of the enforcement policy are as follows:

I — municipalization of enforcement;

II — creation of municipal, state and national councils of child and adolescent rights, which will be deliberative and controlling entities of actions at all levels, in which equal popular participation is ensured through representative organizations, according to the terms of federal, state and municipal legislation;

III — creation and maintenance of specific programs, with due observance of the principle of political-administrative decentralization;

IV — maintenance of national, state and municipal funds connected to the respective councils of child and adolescent rights;

V — operational integration of the entities of the Judiciary, Office of the Attorney General, Office of the Public Defender, Public Security and Social Assistance, preferably in the same locality, for purposes of facilitating initial assistance to the adolescent to whom an infraction has been attributed;

VI — mobilization of public opinion so as to achieve the essential participation of the different segments of society.

Art. 89. The post of member of the national council and of the state and municipal councils of child and adolescent rights is considered to be of relevant public interest and will not be remunerated.

Chapter II

Enforcement Entities

Section I

General Provisions

Art. 90. The enforcement entities are responsible for the maintenance of their own units, as well as for the

planning and execution of protection and socioeducational programs directed at children and adolescents, in systems of:

- I — sociofamily orientation and support;
- II — socioeducational support in an open environment;
- III — family placement;
- IV — shelter;
- V — assisted freedom;
- VI — semiliberty;
- VII — internment.

Paragraph. Governmental and nongovernmental entities should proceed to the registration of their programs, specifying the systems of enforcement according to the terms defined in this article, at the Municipal Council of Child and Adolescent Rights, which will maintain a record of such information and its alterations, and this record will be notified to the Council of Guardianship and the judicial authority.

Art. 91. Nongovernmental entities may only operate after being registered at the Municipal Council of Child and Adolescent Rights, which will communicate the record to the Council of Guardianship and the judicial authority of the respective locality.

Paragraph. Registration will be denied to the entity that:

- a) does not provide physical installations in adequate conditions of habitability, hygiene, health and safety;
- b) does not present a work plan compatible with the principles of this law;
- c) is irregularly constituted;
- d) has persons of ill repute on its staff.

Art. 92. The entities that develop shelter programs should adopt the following principles:

- I — preservation of family bonds;
- II — integration in a foster family, when the maintenance resources of the family of origin have been exhausted;
- III — personalized treatment in small groups;
- IV — development of activities in a context of coeducation;
- V — nonseparation of groups of siblings;
- VI — whenever possible, avoid the transfer of sheltered children and adolescents to other entities;
- VII — participation in local community life;
- VIII — gradual preparation for severance from the entity;
- IX — participation of persons from the community in the educational process.

Paragraph. For all purposes of law, the director of the shelter entity is considered as equivalent to the guardian.

Art. 93. The entities that maintain shelter programs may, by way of exception and in urgent cases, shelter children and adolescents without a prior decision of the proper authority and this fact should be duly notified by the second immediately subsequent working day.

Art. 94. The entities that conduct internment programs have the following obligations, among others:

- I — observe the rights and guaranties to which adolescents are entitled;
- II — not restrict any right that has not been the subject of restriction in the internment decision;
- III — offer personalized treatment in small units and reduced groups;

IV — preserve the identity and offer an environment of respect and dignity to the adolescent;

V — see to the re-establishment and preservation of family bonds;

VI — inform the judicial authority periodically of cases in which the re-establishment of family bonds is shown to be unfeasible or impossible;

VII — offer physical installations in adequate conditions of habitability, hygiene, health and safety and the objects required for personal hygiene;

VIII — offer apparel and nutrition that is sufficient and suited to the age bracket of the adolescents treated;

IX — offer medical, psychological, dental and pharmaceutical care;

X — provide education and vocational training;

XI — provide cultural, sports and leisure activities;

XII — provide religious assistance to those who so desire, according to their beliefs;

XIII — proceed to social and personal studies of each case;

XIV — periodically re-evaluate each case at maximum intervals of six months, informing the proper authorities of the results;

XV — periodically inform the interned adolescent on his procedural situation;

XVI — inform the proper authorities of all cases of adolescents who are bearers of infectious-contagious diseases;

XVII — provide proof of the deposit of the belongings of the adolescents;

XVIII — maintain programs aimed at providing support and accompaniment to those who have left the facilities;

XIX — take steps to obtain the documents required for the exercise of citizenship for those who do not have them;

XX — maintain a file with annotations including the date and circumstances of the treatment, names of the adolescents, their parents or guardians, relatives, addresses, sex, age, monitoring of their training, listing of their belongings and other data that will make possible their identification and the individualization of treatment.

Paragraph 1. In that which is fitting, the obligations of this article apply to the entities that maintain shelter programs.

Paragraph 2. In fulfilling the obligations referred to in this article, the entities will preferably utilize community resources.

Section II

Inspection of the Entities

Art. 95. The government and nongovernment entities referred to in art. 90 will be inspected by the Judiciary, by the Office of the Attorney General and by the Councils of Guardianship.

Art. 96. The investment plans and accounts will be presented to the state or municipality, depending on the origin of the budgetary allocations

Art. 97. The following measures are applicable to the treatment entities that do not fulfill the obligation stated in art. 94, without prejudice to the civil and criminal liability of their directors or employees:

I — to governmental entities:

- a) admonition;
- b) temporary removal of their directors;
- c) definitive removal of their directors;
- d) closing of the unit or interdiction of the program;

II — to nongovernmental entities:

- a) admonition;
- b) total or partial suspension of transfers of public funding;
- c) interdiction of units or suspension of the program;
- d) cancellation of registration.

Paragraph. In cases of repeated infraction committed by the treatment entity in such a way as to place the rights ensured in this Law in jeopardy, the fact should be notified to the Office of the Attorney General or the proper judicial authority for suitable measures, including suspension of the activities or dissolution of the entity.

Title II

Protection Measures

Chapter I

General Provisions

Art. 98. Measures aimed at protecting the child and adolescent are always applicable whenever the rights recognized in this Law are threatened or violated:

- I — by act or omission of the society or State;
- II — by fault, omission or abuse on the part of parents or guardian;
- III — by reason of their conduct.

Chapter II

Specific Protection Measures

Art. 99. The measures specified in this Chapter may be applied individually or cumulatively, as well as substituted at any time.

Art. 100. In the application of the measures, pedagogical needs will be duly considered, giving preference to those that have the objective of strengthening family and community bonds.

Art. 101. Whenever any of the cases specified in art. 98 is found to exist, the proper authority may determine the following measures, among others:

- I — transfer to the parents or guardian by means of a statement of responsibility;

- II — temporary guidance, support and monitoring;
- III — obligatory enrollment and attendance in government basic education institutions;
- IV — inclusion in community or government programs of family, child and adolescent assistance;
- V — requisition of medical, psychological or psychiatric treatment in a hospital or outpatient system;
- VI — inclusion in a government or community program of aid, orientation and treatment of alcoholics and drug addicts;
- VII — shelter in entities;
- VIII — placement in a foster family.

Paragraph. Shelter is a temporary and exceptional measure that can be utilized as a means of transition to placement in a foster family, without implying a privation of freedom.

Art. 102. The protection measures treated of in this Chapter will be accompanied by normalization of the civil registration.

Paragraph 1. Once the inexistence of a previous registration is verified, the record of the birth of the child or adolescent will be effected on the basis of the information available, by means of a petition by the judicial authority.

Paragraph 2. The registration and certificates required for the normalization treated of in this article are exempt from fines, costs and fees and shall have absolute priority.

Title III

The Practice of Infractions

Chapter I

General Provisions

Art. 103. An infraction is understood as conduct described as crime or misdemeanor.

Art. 104. Subject to the measures specified in this Law, minors of less than eighteen years of age are not penally imputable.

Paragraph. For the purposes of this Law, the age of the adolescent on the date of the fact should be considered.

Art. 105. The measures specified in art. 101 will correspond to the infraction practiced by a child.

Chapter II

Individual Rights

Art. 106. No adolescent will be deprived of his freedom unless in *flagrante delicto* or by written and well-founded order of the proper judicial authority.

Paragraph. The adolescent has the right to identification of those responsible for his apprehension and should be informed of his rights.

Art. 107. The apprehension of any adolescent and the place to which he is committed will be notified forthwith to the proper judicial authority and the family of the person apprehended or to the person indicated by him.

Paragraph. The possibility of immediate release will be examined forthwith subject to the penalty of liability.

Art. 108. Internment before sentencing can be determined for a maximum period of forty-five days.

Paragraph. The decision should be well-founded and based on sufficient indication of authorship and materialities and the essential necessity of the measure should be demonstrated.

Art. 109. The civilly identified adolescent will not be submitted to compulsory identification by the police, protection and judicial entities, unless for purposes of confrontation when there is well-founded doubt.

Chapter III

Procedural Guaranties

Art. 110. No adolescent will be deprived of his freedom without due legal process.

Art. 111. Among others, the following guaranties are ensured to the adolescent:

I — full and formal knowledge of the imputation of an infraction by arraignment or equivalent means;

II — equality in the procedural relationship, with the right to confront victims and witnesses and produce the evidence required for defense;

III — technical defense by a lawyer;

IV — gratuitous and full legal assistance to those in need, according to the terms of the law;

V — the right to be heard personally by the proper authority;

VI — the right to request the presence of his parents or guardian at any stage of the proceedings.

Chapter IV

Socioeducational Measures

Section I

General Provisions

Art. 112. Once the practice of an infraction is found to exist, the proper authority may apply the following measures to the adolescent:

- I — admonition;
- II — obligation to repair the damage;
- III — rendering of community service;
- IV — assisted freedom;
- V — inclusion in a system of semiliberty;
- VI — internment in an educational institution;
- VII — any of the measures specified in art. 101, I to VI.

Paragraph 1. The measure applied to the adolescent will give due consideration to his capacity to comply with the same, the circumstances and gravity of the infraction.

Paragraph 2. In no case and under no pretext whatsoever will the rendering of forced labor be permitted.

Paragraph 3. Adolescents who are bearers of disease or mental deficiencies will receive individual and specialized treatment in a place suited to their conditions.

Art. 113. The provision in arts. 99 and 100 apply to this Chapter.

Art. 114. Imposition of the measures specified in items II to VI of art. 112 presupposes the existence of sufficient proof of authorship and materiality of the infraction, with the exception of cases of remission according to the terms of art. 127.

Paragraph. Admonition may be applied whenever there is proof of materiality and sufficient indication of authorship.

Section II

Admonition

Art. 115. The admonition will be verbal and will be expressed in writing and signed.

Section III

The Obligation to Repair Damage

Art. 116. In the case of an infraction with patrimonial effects, the authority may, should the case arise, determine that the adolescent restore the thing, see to reimbursement of the damage or, in another way, compensate the victim's loss.

Paragraph. Should this be clearly impossible, the measure may be substituted by another suitable measure.

Section IV

The Rendering of Services to the Community

Art. 117. The rendering of community services consists in the carrying out of gratuitous tasks of general interest for a period of not more than six months, at entities of assistance, hospitals, schools and other like institutions, as well as in community and governmental programs.

Paragraph. The tasks will be designated according to the aptitudes of the adolescent and should be carried out during a maximum period of eight hours per week, on Saturdays, Sundays and holidays or on working days, in such a way as not to hamper attendance at school or normal working hours.

Section V

Assisted Freedom

Art. 118. Assisted freedom will be adopted whenever it is considered to be the most suitable measure for the monitoring, aiding and orientation of the adolescent.

Paragraph 1. The authority will designate a trained person to monitor the case and such a person may be recommended by a treatment entity or program.

Paragraph 2. Assisted freedom will be determined for a minimum period of six months and can be extended, revoked or substituted by another measure at any time, once the councillor, Office of the Attorney General and defender have been duly heard.

Art. 119. With the support and supervision of the proper authority, it is the task of the councillor to perform the following duties, among others:

I — socially promote the adolescent and his family, providing them with orientation and, if necessary, including them in a government or community program of aid and social assistance;

II — supervise the school attendance and achievement of the adolescent and, if necessary, see to his enrollment;

III — take steps to see to the vocational training of the adolescent and his insertion into the job market;

IV — present case reports.

Section VI

The System of Semiliberty

Art. 120. The system of semiliberty can be determined from the beginning or as a form of transition to

the open system, thus making carrying out of external activities possible, independently of judicial authorization.

Paragraph 1. Education and vocational training are obligatory and, whenever possible, resources existent in the community should be utilized.

Paragraph 2. The measure is not subject to determined periods of time and, in that which is suitable, the provisions related to internment apply.

Section VII

Internment

Art. 121. Subject to the principle of brevity, exceptionality and respect for the peculiar condition of the person in development, internment is a measure that deprives one of freedom.

Paragraph 1. The carrying out of external activities will be permitted at the discretion of the technical staff of the entity, unless there has been an express and contrary judicial determination.

Paragraph 2. The measure is not subject to specific time periods and maintenance of the measure should be re-evaluated at least every six months, on the basis of a well-founded decision.

Paragraph 3. In no case can the maximum period of internment exceed three years.

Paragraph 4. Once the limit determined in the previous paragraph has been reached, the adolescent should be released, placed in a system of semiliberty or assisted liberty.

Paragraph 5. Release will be compulsory at the age of twenty-one.

Paragraph 6. In any case, suspension of internment will be preceded by judicial authorization, once the Office of the Attorney General has been duly heard.

Art. 122. The measure of internment may only be applied when:

I — the case involves an infraction committed by means of grave threat or violence to a person;

II — the case involves repetition in the commitment of other grave infractions;

III — the case involves reiterated and unjustified noncompliance with the previously imposed measure.

Paragraph 1. In the case of item III of this article, the period of internment may not be more than three months.

Paragraph 2. In no case whatsoever will internment be applied when another suitable measure is available.

Art. 123. Internment should be fulfilled at an entity exclusively reserved for adolescents, in a location that is separate from that reserved for purposes of shelter, with rigorous separation on the basis of criteria of age, physical build and temperament and the gravity of the infractions.

Paragraph. During the period of internment, including temporary internment, pedagogical activities will be obligatory.

Art. 124. The rights of the adolescent deprived of freedom are the following, among others:

I — to meet personally with the representative of the Office of the Attorney General;

II — to petition any authority directly;

III — to meet privately with his defender;

IV — to be informed of the status of his process whenever he so requests;

V — to be treated with respect and dignity;

VI — to remain interned in the same locality or in that which is closest to the domicile of his parents or guardian;

VII — to receive visits, at least weekly;

VIII — to correspond with family members and friends;

IX — to have access to the objects required for hygiene and personal cleanliness;

X — to live in lodgings in adequate conditions of hygiene and health;

XI — to receive schooling and vocational training;

XII — to carry out cultural, sports and leisure activities;

XIII — to have access to the communications media;

XIV — to receive religious assistance according to his own belief, whenever he so desires;

XV — to retain possession of his personal objects and to have a secure place in which to keep them, receiving a receipt for those which may be deposited in the keeping of the entity;

XVI — to receive his personal documents required for life in society, upon departure from the entity.

Paragraph 1. In no case will incommunicability be permitted.

Paragraph 2. The judicial authority may temporarily suspend visits, including those of parents or guardian, if there are serious and well-founded reasons why such visits would be prejudicial to the interests of the adolescent.

Art. 125. It is the duty of the State to see to the physical and mental integrity of the interned and the State has the task of adopting suitable measures of confinement and security.

Chapter V

Remission

Art. 126. Before initiation of the judicial proceedings aimed at investigating the infraction, the representative of

the Office of the Attorney General may, in response to the circumstances and consequences of the fact, to the social context and personality of the adolescent and to this greater or lesser participation in the infraction, grant remission as a form of exclusion from the proceedings.

Paragraph. Once the proceedings have been initiated, the granting of remission by the judicial authority will result in the suspension or extinction of such proceedings.

Art. 127. Remission does not necessarily imply recognition or corroboration of responsibility, nor does it prevail for purposes of antecedents, and may occasion include application of any of the measures specified in law except placement in the system of semiliberty and internment.

Art. 128. The measure applied by reason of remission may be judicially reviewed at any time, on the basis of an express request on the part of the adolescent or his legal representative or of the Office of the Attorney General.

Title IV

Measures Pertinent to Parents or Guardian

Art. 129. Measures applicable to parents or guardian are:

I — to be sent to a government or community program of family promotion;

II — inclusion in a government or community program of assistance, guidance and treatment of alcoholics and drug addicts;

III — to be sent for psychological or psychiatric treatment;

IV — to be sent to guidance courses or programs;

V — obligation to enroll the child or ward and monitor his school attendance and achievement;

VI — obligation to send the child or adolescent for specialized treatment;

VII — admonition;

VIII — loss of custody;

IX — removal from guardianship;

X — suspension or removal of paternal power.

Paragraph. In the application of the measures specified in items IX and X of this article, the provision in articles 23 and 24 will be observed.

Art. 130. Once the case of maltreatment, oppression or sexual abuse imposed by parents or guardian has been found to exist, the judicial authority, as a precautionary measure, may determine the removal of the aggressor from the common residence.

Title V

The Council of Guardianship

Chapter I

General Provisions

Art. 131. The Council of Guardianship is a permanent and autonomous, nonjurisdictional entity, charged by society to see to the observance of the rights of the child and adolescent as defined in this Law.

Art. 132. In each municipality, there will be at least one Council of Guardianship composed of five members, elected by the local citizens for a tenure of three years and re-election will be permitted.

Art. 133. The following requirements will be demanded for candidacy to membership in the Council of Guardianship:

- I — recognized moral repute;
- II — age of more than twenty-one years;
- III — residence in the Municipality.

Art. 134. Municipal law will define the place, day and schedule of the functioning of the Council of Guardianship, as well as the possible remuneration of its members.

Paragraph. Allocation of the resources required for the functioning of the Council of Guardianship will be included in the budgetary law of the Municipality.

Art. 135. The effective exercise of the function of councillor will constitute relevant public service, will establish

the presumption of moral repute and will ensure the right to special imprisonment in the case of common crime until definitive judgement.

Chapter II

Duties of the Council

Art. 136. The duties of the Council of Guardianship are:

I — to assist children and adolescents in the cases specified in articles 98 and 105, applying the measures specified in art. 101, I to VII;

II — to assist and orient parents and guardians, applying the measures specified in art. 129, I to VII;

III — to see to the implementation of its decisions and, in this regard, it may:

a) requisition public services in the areas of health, education, social service, social security, labor and security;

b) represent before the judicial authority in cases of unjustified noncompliance with its decisions.

IV — to send to the Office of the Attorney General notification of facts that constitute administrative or penal infractions against the rights of the child or adolescent;

V — to remit to the judicial authority those cases under its responsibility;

VI — to see to the application of the measure determined by the judicial authority, among those specified in art. 101, from I to VI, to the adolescent who is the author of an infraction;

VII — to issue notifications;

VIII — to petition birth and death certificates of children and adolescents when necessary;

IX — to provide advisory services to the local Executive Branch in the elaboration of the budgetary

proposal for the plans and programs of assistance in the area of child and adolescent rights;

X — to represent, in the name of the person and family, against violations of the rights specified in art. 220, paragraph 3, item II of the Federal Constitution;

XI — to represent before the Office of the Attorney General, for purposes of proceedings involving the loss or suspension of paternal power.

Art. 137. The decisions of the Council of Guardianship may only be reviewed by the judicial authority at the request of those with legitimate interests.

Chapter III

Authority

Art. 138. The rule of authority stated in art. 147 applies to the Council of Guardianship.

Chapter IV

The Choice of Councillors

Art. 139. The electoral process for the choice of the members of the Council of Guardianship will be defined in municipal law and will be carried out under the presidency of the electoral judge and the supervision of the Office of the Attorney General.

Chapter V

Impediments

Art. 140. Husband and wife, ascendants and descendants, mother or father-in-law and son or daughter-in-law, siblings, brothers and sisters-in-law, while in-laws, uncle

and nephew, stepfather or stepmother and stepchild are barred from serving on the same Council.

Paragraph. According to the terms of this article, the impediment of the councillor is extended to the judicial authority and to the representative of the Office of the Attorney General when active in the Juvenile Courts, in the judicial district, regional or district jurisdiction.

Title VI

Access to Justice

Chapter I

General Provisions

Art. 141. Access of every child or adolescent to the Office of the Public Defender, Office of the Attorney General and Judiciary Branch, through any of its organs, is ensured.

Paragraph 1. Gratuitous legal assistance is rendered to those in need of the same through the public defender or designated lawyer.

Paragraph 2. Legal proceedings under the responsibility of the Juvenile Court are exempt from costs and fees, with the exception of the case of litigations brought out of bad faith.

Art. 142. Minors of less than sixteen years of age will be represented and those aged sixteen or more and less than twenty-one years of age will be assisted by their parents, custodians or guardians, according to the form of civil or procedural legislation.

Paragraph. The judicial authority shall provide a special guardian to the child or adolescent whenever the interests of the child or adolescent collide with those of his parents or guardian or when representation or legal assistance is lacking, even when the lack is occasional.

Art. 143. Dissemination of judicial, police and administrative acts regarding children and adolescents to

whom authorship of an infraction has been attributed is prohibited.

Paragraph. Any news with respect to the fact may not identify the child or adolescent and photographs, references to the name, nickname, filiation, relations and residence is prohibited.

Art. 144. Issue of copies or certificates of the acts to which the previous article refers will only be permitted by the proper judicial authority if the interest is demonstrated and the objective is justified.

Chapter II Juvenile Courts

Section I *General Provisions*

Art. 145. The states and Federal District may create specialized and exclusive juvenile courts and the Judicial Branch has the responsibility for establishing their proportionality per number of inhabitants, provide them with infrastructure and define their operation, including standby operation.

Section II *The Judge*

Art. 146. The authority to whom this Law refers is the Judge of the Juvenile Court or the judge who exercises this function, according to the terms of the local law of judiciary organization.

Art. 147. Authority will be determined:

I — according to the domicile of the parents or guardian;

II — according to the place in which the child or adolescent is encountered, in the absence of the parents or guardian.

Paragraph 1. In cases of infraction, the authority of the place of the act or omission will be the competent authority, with due observance of the rules of connection and prevention.

Paragraph 2. Execution of the measures may be delegated to the competent authority of the place of residence of the parents or guardian or of the place in which the entity that shelters the child or adolescent is headquartered.

Paragraph 3. In the case of an infraction committed through simultaneous radio or television transmission that reaches more than one judicial district, the judicial authority of the site of the state headquarters of the station or network will be competent for the application of the penalty, and the sentence will be effective for all of the transmitters and retransmitters of the respective State.

Art. 148. The Juvenile Court is responsible for:

I — judging the representations moved by the Office of the Attorney General for purposes of verification of the infraction attributed to the adolescent, applying the suitable measures;

II — granting remission, as a form of suspension or extinction of the proceedings;

III — judging petitions for adoption and their incidents;

IV — judging civil suits founded upon individual, *de facto* or collective interests related to the child or adolescent, with due observance of the provision in art. 209;

V — judging suits consequent upon irregularities in assistance entities, applying the appropriate measures;

VI — applying administrative penalties in cases of infractions against norms of child or adolescent protection;

VII — judging cases remitted by the Council of Guardianship, applying the appropriate measures.

Paragraph. In the cases of children or adolescents specified in art. 98, the Juvenile Court is also responsible for:

- a) judging requests for custody and guardianship;
- b) judging suits involving removal of paternal power, loss or modification of guardianship or custody;
- c) providing authority or consent to marriage;
- d) judging requests based on paternal or maternal disagreements, in relation to the exercise of paternal power;
- e) granting emancipation in the absence of parents, according to the terms of the law;
- f) designating a special guardian in cases of the presentation of claims or representation or other judicial or extrajudicial proceedings in which the interest of a child or adolescent is involved;
- g) judging family support suits;
- h) determining the cancellation, rectification and providing of birth and death certificates.

Art. 149. It is the responsibility of the judiciary to discipline, by means of a directive, or to authorize, by means of a license:

I — the entry and permanence of children or adolescents, unaccompanied by their parents or guardian, in:

- a) stadiums, gymnasiums and sports fields;
- b) balls and dances;
- c) nightclubs and the like;
- d) establishments that commercially exploit electronic games;

- e) movie, theater, radio and television studios.
- II — participation of the child and adolescent in:
 - a) public shows and their rehearsals;
 - b) beauty contests.

Paragraph 1. For the purposes of the provision of this article, the judicial authority will, among other factors, consider the following:

- a) the principles of this Law;
- b) local peculiarities;
- c) the existence of adequate facilities;
- d) the type of habitual client of the location;
- e) the suitability of the environment to the occasional participation or attendance of children and adolescents;
- f) the nature of the show.

Paragraph 2. The measures adopted on the basis of this article should be determined case by case, while decisions of a general character are prohibited.

Section III

Auxiliary Services

Art. 150. In the elaboration of its budgetary proposal, the judicial authority is responsible for forecasting the resources for maintenance of an interprofessional staff that will have the objective of providing advisory assistance to the Juvenile Court.

Art. 151. Among the other responsibilities reserved to it by local legislation, the interprofessional staff will also be responsible for supplying written subsidiary information by means of reports, presented either orally or at hearings, as well as for performing the tasks of counseling, orientation, channelling, prevention and others, and all of this is to be

done under direct subordination to the judicial authority with the guaranty of free expression of technical opinions.

Chapter III Proceedings

Section I *General Provisions*

Art. 152. In a subsidiary way, the general norms defined in the pertinent procedural legislation apply to the proceedings regulated in this Law.

Art. 153. If the judicial measure to be adopted does not correspond to a proceeding specified in this or in another Law, the judicial authority may investigate the facts and order the necessary measures by its own motion, having duly heard the Office of the Attorney General.

Art. 154. The provision in art. 214 applies to the fines.

Section II *Loss and Suspension of Paternal Power*

Art. 155. The proceeding for the loss or suspension of paternal power will begin at the initiative of the Office of the Attorney General or a person with legitimate interest.

Art. 156. The initial petition will indicate:

I — the judicial authority to which it is directed;

II — the name, marital state, profession and residence of the petitioner and defendant, while the qualifications will be dispensed with in petitions formulated by a representative of the Office of the Attorney General;

III — the summarized exposition of the fact and petition;

IV — the evidence that will be presented, providing at the same time the list of witnesses and documents.

Art. 157. When there is grave reason to do so and having duly heard the Office of the Attorney General, the judicial authority may decree the preliminary or temporary suspension of paternal power until definitive judgement of the case, during which time the child or adolescent will be entrusted to a person of good repute on the basis of a statement of responsibility.

Art. 158. The defendant will be summoned to present a written response within ten days, indicating the evidence to be presented and, at the same time, providing the list of witnesses and documents.

Paragraph. All methods required for personal summons should be exhausted.

Art. 159. If the defendant is unable to constitute a lawyer, without prejudice to his own and his family's support, he may through a notary office request that a court appointed lawyer be designated who will be responsible for the presentation of the response, the period for which will be calculated as of the legal notification of the designation order.

Art. 160. When necessary, the judicial authority may requisition from any public entity or office the presentation of documents of interest to the case, by its own motion or upon the petition of the parties or the Office of the Attorney General.

Art. 161. Should the petition not be contested, the judicial authority will permit examination of the records by the Office of the Attorney General for five days, except when it is the petitioning party and will make its decision within an equal period of time.

Paragraph 1. Should it be deemed necessary, the judicial authority may determine the carrying out of a social

or expert study by an interprofessional staff, as well as the hearing of witnesses.

Paragraph 2. If the petition implies modification of custody, hearing of the testimony of the child or adolescent will be obligatory, provided that it is possible and reasonable.

Art. 162. Once the response is presented, the judicial authority will permit the Office of the Attorney General to examine the records for five days, except when it is the petitioning party, and shall immediately schedule the examining hearings.

Paragraph 1. On the petition of any of the parties, the Office of the Attorney General, or by its own motion, the judicial authority may determine the carrying out of a social study or, if possible, an expert study by an interprofessional staff.

Paragraph 2. With the parties and Office of the Attorney General present, the witnesses will be heard at the hearing and the technical report will be presented orally, except when it is presented in written form. The petitioning party, defendant and Office of the Attorney General will express their positions successively for a period of twenty minutes each, with the possibility of an extension for another ten minutes. The decision will be taken at the hearing and the judiciary authority may, by way of exception, designate a date for the reading of the decision within a maximum of five days.

Art. 163. The sentence that decrees the loss or suspension of paternal power will be annotated in the margin of the birth record of the child or adolescent.

Section III

Removal of Guardianship

Art. 164. In the removal of guardianship, the proceedings for the removal of the guardian specified in civil

procedural law will be observed as will the provision in the previous section, in that which is appropriate.

Section IV

Placement in a Foster Family

Art. 165. The following are requirements for the granting of a request for placement in a foster family:

I — complete qualification of the petitioner and spouse or companion, with the express agreement of the latter;

II — indication of the possible relationship of the petitioner and his spouse or companion with the child or adolescent, specifying when he does or does not have a living relative;

III — complete qualification of the child or adolescent and his parents, if they are known;

IV — indication of the notary office in which the birth is registered, appending a copy of the respective certificate when possible;

V — declaration on the existence of properties, rights or income related to the child or adolescent.

Paragraph. In the case of adoption, the specific requirements will also be observed.

Art. 166. If the parents are deceased, have been deprived or suspended from paternal power or have expressly adhered to the request for placement in a foster family, the request may be formulated directly in the notary office in a petition signed by the petitioners themselves.

Paragraph. In the case of agreement on the part of the parents, they will be heard by the judicial authority and by the representative of the Office of the Attorney General and the declaration will be taken for purposes of record.

Art. 167. The judicial authority, at its own initiative or upon the petition of the parties or Office of the Attorney General, will determine the carrying out of a social study or, if possible, an expert study by an interprofessional staff, deciding on the granting of provisional custody and, in the case of adoption, on the trial period of common living.

Art. 168. Once the social report or expert report has been presented and, whenever possible, once the child or adolescent has been duly heard, the Office of the Attorney General will be permitted to examine the records for a period of five days and the judicial authority will make its decision in an equal period of time.

Art. 169. In cases of deprivation of guardianship, loss or suspension of paternal power can be a logical presupposition to the principal measure of placement in a foster family, the proceeding of contestation specified in Sections II and III of this Chapter will be observed.

Paragraph. The loss or modification of custody may be decreed in the same records of the proceedings, with due observance of the provision in art. 35.

Art. 170. Once custody or guardianship has been granted, the provision in art. 32 will be observed and, in the case of adoption, that contained in art. 47 will be observed.

Section V

Investigation of the Infraction Attributed to an Adolescent

Art. 171. The adolescent apprehended on the basis of a judicial order will immediately be remitted to the judicial authority.

Art. 172. The adolescent apprehended in the act of committing an infraction will be immediately remitted to the proper police authority.

Paragraph. Should there exist a police office specialized in cases involving adolescents and in cases involving infractions committed in co-authorship with an adult, the responsibility of the specialized office will prevail which, after taking the necessary measures according to the case in question, will remit the adult to the proper police office.

Art. 173. In the case of an infraction in *flagrante delicto* committed with violence or grave threat to a person, the police authority, without prejudice to the provision in arts. 106, paragraph and 107, should:

I — register the arrest record, having heard the witnesses and the adolescent;

II — seize the product and instruments of the infraction;

III — solicit examinations or expert investigations required for corroboration of the materiality and authorship of the infraction.

Paragraph. In other cases of *flagrante delicto*, the registering may be substituted by the police register with the due circumstances.

Art. 174. Should either of the parents or guardian be present, the adolescent will be immediately released by the police authority, on the basis of a statement of commitment and responsibility for his presentation to the representative of the Office of the Attorney General on the same day or, when this is impossible, on the first subsequent working day, except when the adolescent is to remain interned for the guaranty of his personal security or the maintenance of the public order, due to the gravity of the infraction and its social repercussion.

Art. 175. In cases in which the adolescent is not released, the police authority will promptly send the adolescent to the representative of the Office of the

Attorney General, together with a copy of the arrest record or police register.

Paragraph 1. Should immediate presentation be impossible, the police authority will send the adolescent to an assistance entity which, within a period of twenty-four hours, will present him to the representative of the Office of the Attorney General.

Paragraph 2. In those localities in which there is no assistance entity, the presentation will be the task of the police authority. Should a specialized police office not exist, the adolescent will await presentation in facilities that are separate from those reserved for adults and, in no case whatsoever, will it be permitted to surpass the time period specified in the previous paragraph.

Art. 176. Should the adolescent be released, the police authority will immediately remit a copy of the arrest record or police register to the representative of the Office of the Attorney General.

Art. 177. In the absence of *flagrante delicto*, should there be indications of the adolescent's participation in the practice of an infraction, the police authority will send a report of the investigations and other documents to the representative of the Office of the Attorney General.

Art. 178. The adolescent to whom authorship of an infraction is attributed may not be conducted or transported in the closed compartment of a police vehicle in conditions prejudicial to his dignity or which imply risk to his physical or mental integrity, subject to the penalty of liability.

Art. 179. Once the adolescent has been presented, the representative of the Office of the Attorney General will, on the same day and with examination of the arrest record, police register or police report, duly registered by the court and with information on the antecedents of the adolescent, proceed immediately and informally to the hearing and, if

possible, to the testimony of his parents or guardian, victim and witnesses.

Paragraph. In cases in which the adolescent is not presented, the representative of the Office of the Attorney General will notify the parents or guardian for presentation of the adolescent and may petition the cooperation of the civilian and military police.

Art. 180. Once the measures referred to in the previous article have been taken, the representative of the Office of the Attorney General may:

- I — see to the permanent filing of the records;
- II — grant remission;
- III — present the case to the judicial authority for application of a socioeducational measure.

Art. 181. Should the records be permanently filed or remission be granted by the representative of the Office of the Attorney General on the basis of a well-founded statement that will include a summary of the facts, the records will be concluded and remitted to the judicial authority for approval.

Paragraph 1. Once permanent filing or remission has been approved, the judicial authority will, depending on the case, determine application of the measure.

Paragraph 2. Should he be in disagreement, the judicial authority will remit the records to the Attorney General with a well-founded statement of position and the Attorney General will present the case to court, designate another member of the Office of the Attorney General to present it, or ratify the permanent filing or remission, which only then will the judicial authority be obligated to approve.

Art. 182. If, for any reason whatsoever, the representative of the Office of the Attorney General does not see to the permanent filing or grant remission, he will present the case to the judicial authority, proposing initiation

of proceedings for application of the socioeducational measure considered most adequate.

Paragraph 1. The representation will be effected by petition which will include a brief summary of the facts and classification of the infraction and, when necessary, the list of witnesses, it being permitted to do this orally in a daily session initiated by the judicial authority.

Paragraph 2. Representation is not dependent on preconstituted proof of authorship and materiality.

Art. 183. Should the adolescent be temporarily interned, the maximum and nonextendable period for conclusion of the proceedings will be forty five days.

Art. 184. Should the representation be made, the judicial authority will schedule a hearing for arraignment of the adolescent and will promptly decide as to decreeing or maintaining internment, with due observance of the provision in art. 108 and its paragraph.

Paragraph 1. The adolescent and his parents or guardian will be informed of the content of the representation and notified to be present at the hearing in the company of a lawyer.

Paragraph 2. If the parents or guardian are not located, the judicial authority shall name a special guardian for the adolescent.

Paragraph 3. Should the adolescent not be located, the judicial authority will issue a search and arrest warrant, determining suspension of the proceedings until effective presentation.

Paragraph 4. Should the adolescent be interned, his presentation will be petitioned, without prejudice to the notification of the parents or guardian.

Art. 185. Internment decreed or maintained by the judicial authority may not be fulfilled in a prison institution.

Paragraph 1. Should an entity with the characteristics defined in art. 123 not exist in the judicial district, the adolescent should be immediately transferred to the nearest locality.

Paragraph 2. Should immediate transfer be impossible, the adolescent will await removal at a police office, provided that this be done in a section separate from adults and in appropriate facilities and, subject to the penalty of liability, this period can not surpass five days.

Art. 186. Should the adolescent, his parents or guardian be present, the judicial authority will proceed to the hearing of the same, and may request the opinion of a qualified professional.

Paragraph 1. Should the judicial authority judge that remission is most adequate, the position of the representative of the Office of the Attorney General will be heard and the decision will be issued.

Paragraph 2. In the case of a grave fact subject to application of the measure of internment or placement in a system of semiliberty, the judicial authority will, if it has been found that the adolescent does not have a constituted lawyer, name a public defender and promptly schedule the continuation of proceedings, and may also determine the carrying out of investigations and studies of the case.

Paragraph 3. The constituted lawyer or designated public defender will, within a period of three days as of the audience of arraignment, provide a prior defense and the list of witnesses.

Paragraph 4. In the continuation of the hearing, once the witnesses registered in the representation and prior defense have been heard, and once the investigation has been completed, the report of the interprofessional staff included in the record, the representative of the Office of the Attorney General and the defender will be permitted to manifest themselves, successively, for a period of twenty

minutes each which may be extended for an additional ten minutes, at the discretion of the judicial authority, which will then issue a decision.

Art. 187. If, without justification and having been duly notified, the adolescent is not present at the arraignment, the judicial authority will schedule a new date, determining that the adolescent be presented coercively.

Art. 188. As a form of extinction or suspension of the proceedings, remission may be applied at any stage of the proceedings before sentencing.

Art. 189. The judicial authority shall not apply any measures, provided that he acknowledge in the sentence that:

- I — the inexistence of the fact has been proved;
- II — there is no proof as to the existence of the fact;
- III — the fact does not constitute an infraction;
- IV — there is no proof that the adolescent has contributed to the infraction.

Paragraph. In the case of this article, should the adolescent be interned, he will immediately be placed in liberty.

Art. 190. Legal notice of the sentence that applies the measure of internment or system of semiliberty will be made:

- I — to the adolescent and his defender;
- II — when the adolescent is not encountered, to his parents or guardian, without prejudice to the defender.

Paragraph 1. Should another measure be applied, the legal notice will be done exclusively to the defender.

Paragraph 2. Should the legal notice be served to the adolescent, he should state whether he desires to appeal the sentence or not.

Section VI
Verification of Irregularities in
an Assistance Entity

Art. 191. The proceedings for verifying irregularities in a government or nongovernment entity will be initiated through a directive from the judicial authority or representative of the Office of the Attorney General or Council of Guardianship which must include a summary of the facts.

Paragraph. Should there be grave reason, the judicial authority, having heard the Office of the Attorney General, may in a preliminary manner decree the temporary removal of the director of the entity on the basis of a well-founded decision.

Art. 192. The director of the entity will be summoned to present a written response within ten days and may include documents and indicate the evidence to be produced.

Art. 193. Whether the response is presented or not, and should it be necessary, the judicial authority will summon the parties involved and schedule an examination hearing.

Paragraph 1. Unless there is a manifestation during the hearing, the parties involved and the Office of the Attorney General will have five days to present their final allegations and the judicial authority will have an equal period to issue a decision.

Paragraph 2. In the case of the temporary or definitive removal of the director of a governmental entity, the judicial authority will notify the immediately superior administrative authority of the person removed, setting a deadline for his substitution.

Paragraph 3. Before applying any of the measures, the judicial authority may set a time period for the

elimination of the irregularities found to exist. Once the demands have been met, the process will be extinguished without judgement of the merits of the case.

Paragraph 4. The fine and admonition will be imposed on the director of the entity or assistance program.

Section VII

Verification of Administrative Infractions of the Norms of Protection of the Child and Adolescent

Art. 194. The proceedings for imposition of administrative penalties for infraction of the norms of protection of the child and adolescent will be initiated by representation of the Office of the Attorney General or the Council of Guardianship or an infraction record elaborated by the accredited effective or volunteer employee and, if possible, signed by two witnesses.

Paragraph 1. In the procedure begun with the record of infraction, printed forms may be utilized, specifying the nature and circumstances of the infraction.

Paragraph 2. Whenever possible, verification of the infraction will be followed by registration and, should this not occur, the reasons for the delay will be investigated.

Art. 195. The defendant will have ten days in which to present a defense as of the date of the summons, which will be effected:

I — by the designated official in the records themselves, when this is done in the presence of the defendant;

II — by the server of processes or legally qualified employee who will deliver a copy of the record or representation to the defendant or his legal representative, duly transcribed in a certificate;

III — by mail with notification of reception, if the defendant or his legal representative is not encountered;

IV — by publication with a deadline of thirty days if the whereabouts of the defendant or his legal representative is uncertain or unknown.

Art. 196. Should the defense not be presented within the legally established period, the judicial authority will permit examination of the records by the Office of the Attorney General for a period of five days and will decide the case in an equal period of time.

Art. 197. Once the defense has been presented, the judicial authority will proceed according to the terms of the previous article or, should it be necessary, will schedule an examination hearing.

Paragraph. Once written evidence has been received, the Office of the Attorney General and the attorney of the defendant will state their positions successively for a period of twenty minutes each, which may be extended for an additional ten minutes, at the discretion of the judicial authority, who will then render his sentence.

Chapter IV

Appeals

Art. 198. In proceedings involving the Juvenile Court the appeal system in the Civil Proceedings Code, as approved by Law no. 5,869, dated January 11, 1973, together with later alterations, is hereby adopted, with the following adaptations.

I — appeals will be formulated independently of preparation;

II — in all appeals, except bill of review and amendment of judgement, the period for formulating and responding will always be ten days;

III — appeals will have preference of judgement and will dispense with a reviewer;

IV — the respondent party will be summoned to provide a response and indicate the briefs to be transcribed;

V — the period for extraction, verification and correction of the transcription will be forty eight hours;

VI — the appeal will be received with effect of devolution. When the appeal is formulated against a sentence that grants adoption by a foreigner and, at the discretion of the judicial authority, supersedeas will also be granted when there is danger of irreparable harm or harm difficult to be repaired;

VII — before determining remittance of the records to the higher instance, in the case of appeal, or of the instrument, in the case of technical appeal, the judicial authority will issue a well-founded statement, maintaining or reversing the decision with a period of five days;

VIII — should the appealed decision or decision appealed on technical grounds be maintained, the clerk will remit the records or the instrument to the higher instance within twenty four hours, independently of a new petition on the part of the appellant; if the decision is reversed, the remittance of the records will depend on an express request of the interested party or Office of the Attorney General, within a period of five days as of the summons.

Art. 199. Appeals may be presented against decisions taken on the basis of art. 149.

Chapter V

The Office of the Attorney General

Art. 200. As specified in this Law, the functions of the Office of the Attorney General will be exercised according to the terms of the respective organic law.

Art. 201. It is the duty of the Office of the Attorney General:

I — to grant remission as a form of exclusion from the proceedings;

II — to promote and monitor the proceedings related to infractions attributed to adolescents;

III — to promote and monitor support suits and proceedings involving the suspension and deprivation of paternal power, designation and removal of tutors, custodians and guardians, as well as to act in all other proceedings subject to the authority of the Juvenile Court;

IV — to promote either at its own initiative or at the request of interested parties, specialization and registration of a legal mortgage deed and the rendering of accounts by tutors, custodians and any administrators of the properties of children and adolescents in the mortgages stated in art. 98;

V — to promote the civil investigation and public civil suit for the protection of the individual, de facto or collective interests related to childhood and adolescence, including those defined in art. 220, paragraph 3, item II, of the Federal Constitution;

VI — initiate administrative proceedings and prepare them:

a) issue notifications to receive testimony or clarifications and, in the case of unjustified absence, request forceful presentation, including by the civilian or military police;

b) solicit information, examinations, expert examinations and documents from municipal, state and federal authorities, from the direct or indirect administration, as well as foster inspections and investigative actions;

c) solicit information and documents from private persons and private institutions.

VII — initiate inquiries, request investigative actions and determine the opening of police inquiries to investigate infractions or infractions of the norms of protection of children and adolescents;

VIII — watch over the effective respect for the legal rights and guaranties ensured to children and adolescents, sponsoring appropriate judicial and extrajudicial measures;

IX — petition warrants, injunctions and *habeas corpus* in any court, instance or tribunal in the defense of the social and individual interests not available to the child or adolescent;

X — petition the court for the purposes of applying penalties for infractions committed against the norms of protection of children and youth, without prejudice to the civil and penal liability of the infractor, when suitable;

XI — inspect public and private assistance entities and the programs treated of in this law, promptly adopting the administrative or judicial measures required for the elimination of the irregularities that may have been found to exist;

XII — requisition police force as well as the collaboration of medical, hospital, educational and social assistance public or private services for the carrying out of its responsibilities.

Paragraph 1. The legitimate standing of the Office of the Attorney General to move the civil suits specified in this article does not impede the legitimate standing of third parties in the same cases, according to the terms of the Constitution and this Law.

Paragraph 2. The responsibilities cited in this article do not exclude others, provided that they be compatible with the objective of the Office of the Attorney General.

Paragraph 3. In the performance of his functions, the representative of the Office of the Attorney General will

have free access to every locality in which a child or adolescent is to be found.

Paragraph 4. The representative of the Office of the Attorney General will be responsible for the improper use of the information and documents he requisitions in the legal hypotheses of secrecy.

Paragraph 5. In the performance of the responsibility treated of in item VIII of this article, the representative of the Office of the Attorney General may:

a) reduce to a written statement the declarations of the plaintiff, initiating under his presidency the proper proceedings;

b) come to a direct understanding with the person or authority against whom the complaint has been made on a date, in a locality and at a time previously notified or agreed upon;

c) make recommendations as to the improvement of public services and those of public relevance that affect children or adolescents, determining reasonable periods of time for their implementation.

Art. 202. In the processes and proceedings in which it does not participate, the Office of the Attorney General will have the obligation to act in the defense of the rights and interests stated in this Law, in which case it will be entitled to examine the records after the parties involved and is entitled to include documents and require actions through the utilization of suitable resources.

Art. 203. In any case, the summons of the Office of the Attorney General will be done personally.

Art. 204. The absence of intervention of the Office of the Attorney General will result in the nullity of the proceedings which will be declared at the initiative of the judge or at the request of any interested party.

Art. 205. The procedural manifestations of the representative of the Office of the Attorney General should be well-founded.

Chapter VI

The Lawyer

Art. 206. The child or adolescent, his parents or guardian and any person with legitimate interest in the solution of the suit may intervene in the proceedings treated of in this law through a lawyer who, with due observance of judicial secrecy, will be summoned personally or by official publication for all the acts.

Paragraph. Full and gratuitous juridical assistance will be rendered to all in need of it.

Art. 207. No adolescent to whom the practice of an infraction has been attributed will be processed without a defender, even if he is absent or a fugitive.

Paragraph 1. If the adolescent has no defender, the judge will designate one though, at all times, the right to constitute another of the adolescent's preference will be preserved.

Paragraph 2. The absence of the defender will not result in the postponement of any act of the proceedings, and the judge should name a substitute, even a temporary substitute or for purposes of that single act.

Paragraph 3. The granting of power-of-attorney will be dispensed with when the defender has been designated or, in the case of a constituted defender, who has been indicated by a formal act in the presence of the judicial authority.

Chapter VII

Judicial Protection of Individual, *de Facto* and Collective Rights

Art. 208. Suits involving liability for violation of the rights ensured to the child and adolescent, in the case of the nonsupply or irregular supply of the following, are governed by the provisions of this Law:

- I — obligatory education;
- II — specialized educational assistance for those bearing disabilities;
- III — assistance in day-care and preschool facilities for children from zero to six years of age;
- IV — regular nighttime education, suited to the conditions of those being educated;
- V — supplementary programs involving the supply of didactic-school material, transportation and health assistance to the person being education in the basic education system;
- VI — social assistance service aimed at the protection of the family, maternity, childhood and adolescence, as well as support to those children and adolescents in need of such;
- VII — access to health actions and services;
- VIII — education and vocational training to those adolescents deprived of liberty.

Paragraph. The cases specified in this article do not exclude from judicial protection other individual, *de facto* or collective interests that are specific to childhood and adolescence and are protected by the Constitution and by law.

Art. 209. The suits specified in this Chapter will be proposed in the jurisdiction in which the act or omission occurred or may occur and the judge of that jurisdiction will

have absolute power to process the cause, without prejudice to the authority of the Federal Court system and the authority that originates in the higher courts.

Art. 210. For civil suits based on collective or *de facto* interests, the following are considered to have concomitant legitimate interests:

I — the Office of the Attorney General;

II — the Federal Government, states, municipalities, Federal District and territories;

III — associations that have been legally constituted for at least one year and which, among their institutional objectives, include the defense of the interests and rights protected by this Law, in which case the authorization of the assembly is not necessary when there is prior statutory authorization.

Paragraph 1. Facultative joint action will be permitted between the Office of the Attorneys General of the Federal Government and states in the defense of the interests and rights treated of in this Law.

Paragraph 2. In the case of desistance or abandonment of a suit by an association that has legitimate interests, the Office of the Attorney General or other party with legitimate interest may assume active authorship.

Art. 211. Public entities with legitimate interest may with respect to the interested parties accept commitments of adjustment of their conduct to legal requirements, and such will have efficacy of executive extrajudicial title.

Art. 212. All types of pertinent suits are permitted for the defense of the rights and interests protected by this Law.

Paragraph 1. The norms of the Civil Proceedings Code apply to the suits specified in this Chapter.

Paragraph 2. Enjoinment suits governed by the norms of the law of enjoinment warrants, may be brought against

the illegal or abusive acts of the public authority or agent of a legal entity in the exercise of the responsibilities of the public authority that violate a clear and certain right specified in this Law.

Art. 213. In a suit that has the objective of fulfilling an obligation to act or not to act, the judge will grant specific tutelage of the obligation or shall determine measures that ensure the practical result equivalent to that of the payment.

Paragraph 1. Should the foundations of the claim be relevant and there be justified misgivings as to the effectiveness of the final disposition, it is licit to the judge to grant tutelage in a preliminary way or after prior justification, having cited the defendant.

Paragraph 2. In the case of the previous paragraph or in the sentence, the judge may levy a daily fine on the defendant independently of a petition on the part of the plaintiff, if it is sufficient or compatible with the obligation and determine a reasonable period of time for fulfillment of the precept.

Paragraph 3. The fine will only be discharged against the defendant after final sentencing favorable to the plaintiff but it will be due since the day in which noncompliance has been characterized.

Art. 214. The amounts of the fines will be channelled to the fund managed by the Council of Child and Adolescent Rights of the respective municipality.

Paragraph 1. The fines not collected up to thirty days after the final decision will be claimed through execution under the responsibility of the Office of the Attorney General in the same records, and the other parties with legitimate interests will be entitled to take the same initiative.

Paragraph 2. Until such time as the fund is duly regulated, the resources will remain on deposit in a

government credit institution in an account entitled to monetary indexing.

Art. 215. To avoid irreparable harm to the party involved, the judge may grant the effect of suspension to appeals.

Art. 216. After final sentencing has condemned the Public Authority, the judge shall determine that the briefs be remitted to the proper authority for verification of the civil and administrative liability of the agent to whom the act or omission is attributed.

Art. 217. After sixty days of final condemnatory sentencing during which time the association that authored the suit has not executed the same, this should be done by the Office of the Attorney General, while the other parties with legitimate interest will be entitled to take the same initiative.

Art. 218. The judge will condemn the plaintiff association to pay lawyer fees to the defendant as arbitrated according to the terms of paragraph 4 of art. 20 of Law no. 5,869, dated January 11, 1973 (Civil Proceedings Code), when he recognizes that the pretension is clearly without foundation.

Paragraph. In the case of litigation based on bad faith, the plaintiff association and the directors responsible for the bringing of the suit will be jointly condemned to ten times the costs, without prejudice to liability for losses and damages.

Art. 219. In the suits treated of in this Chapter, there will be no postponement of costs, fees, expert fees and any other expenditures.

Art. 220. Any person may and the public employee should provoke the initiative of the Office of the Attorney General, providing the same with information on the facts that are the subject of civil suit, indicating the elements of conviction.

Art. 221. If, in the exercise of their functions, the judges and courts become knowledgeable of facts that may support the objective of the civil suit, they will remit the briefs to the Office of the Attorney General for the appropriate measures.

Art. 222. In the preparation of the initial petition, the interested party may requisition from the proper authorities certificates and information deemed necessary and the same will be provided within fifteen days.

Art. 223. Under its own presidency, the Office of the Attorney General may initiate a civil inquiry or requisition from any person, public or private institution, certificates, information, examinations or expert examination within a period which it will determine and which may not be less than ten business days.

Paragraph 1. Once all measures have been exhausted, should the Office of the Attorney General be convinced of the inexistence of foundations for the objective of the civil suit, it will permanently file the records of the civil inquiry or of the informative briefs, doing so on due grounds.

Paragraph 2. The permanently filed records of the civil inquiry or informative briefs will, under the penalty of incurring grave fault, be remitted to the Higher Council of the Office of the Attorney General within three days.

Paragraph 3. Until approval or rejection of permanent filing at a session of the Higher Council of the Office of the Attorney General, the associations with legitimate interests may present written reasons or documents which will be included in the records of the inquiry or appended to the informative briefs.

Paragraph 4. The decision to permanently file will be submitted to the examination and deliberation of the Higher Council of the Office of the Attorney General, as determined in its Internal Bylaws.

Paragraph 5. Should the Higher Council not approve permanent filing, it will promptly designate another entity of the Office of the Attorney General to judge the suit.

Art. 224. In a subsidiary manner and in that which is appropriate, the provisions of Law no. 7,347, dated July 24, 1985, apply.

Title VII

Crimes and Administrative Infractions

Chapter I

Crimes

Section I

General Provisions

Art. 225. This Chapter treats of crimes practiced against the child and adolescent, by act or omission, without prejudice to the provision in penal legislation.

Art. 226. The norms of the General Part of the Penal Code apply to the crimes defined in this Law, and the pertinent norms of the Penal Procedures Code apply to the process.

Art. 227. The crimes defined in this Law are subject to unconditioned public suit.

Section II

Crimes in General

Art. 228. Should the party responsible for the service or the director of an institution of assistance to the health of pregnant women fail to maintain records of the activities carried out, in the manner and within the time period referred to in art. 10 of this Law, as well as to provide the parturient or guardian, at the time of medical discharge,

with a declaration of birth that states the occurrences of the birth and the development of the newborn:

Penalty — detention from six months to two years.

Paragraph. If the crime is involuntary:

Penalty — detention from two to six months, or fine.

Art. 229. Should the medical doctor, nurse or director of an institution of assistance to the health of pregnant women fail to correctly identify the newborn and the parturient at the time of birth, or fail to carry out the examinations referred to in art. 10 of this Law:

Penalty — detention of six months to two years.

Paragraph. If the crime is involuntary:

Penalty — detention from two to six months, or fine.

Art. 230. Deprive the child or adolescent of his freedom, proceeding to his arrest without *flagrante delicto* of the infraction or when there is no written warrant issued by the proper judicial authority:

Penalty — detention from six months to two years.

Paragraph. He who proceeds to the arrest without observance of the legal formalities is liable to the same penalty.

Art. 231. Should the police authority responsible for the arrest of the child or adolescent fail to immediately notify the proper judicial authority and the family of the arrested subject or person indicated by the same:

Penalty — detention from six months to two years.

Art. 232. Submit the child or adolescent under his authority, custody or vigilance to vexation or coercion:

Penalty — detention from six months to two years.

Art. 233. Submit the child or adolescent under his authority, custody or vigilance to torture:

Penalty — confinement of one to five years.

Paragraph 1. If it results in aggravated battery:

Penalty — confinement from two to eight years.

Paragraph 2. If it results in extreme aggravated battery:

Penalty — confinement from four to twelve years.

Paragraph 3. If it results in death:

Penalty — confinement from fifteen to thirty years.

Art. 234. Should the proper authority fail, without just cause, to order the immediate release of the child or adolescent, as soon as he becomes knowledgeable of the illegality of the arrest:

Penalty — detention from six months to two years.

Art. 235. Not fulfill, in an unjustified manner, the period determined in this Law in the benefit of the adolescent deprived of liberty:

Penalty — detention from six months to two years.

Art. 236. Impede or hamper the action of the judicial authority, member of the Council of Guardianship or representative of the Office of the Attorney General in the exercise of a function specified in this Law:

Penalty — detention from six months to two years.

Art. 237. Remove the child or adolescent from the authority of he who, by law or judicial order, has due custody, for purposes of placement in a foster home:

Penalty — confinement from two to six years, and fine.

Art. 238. Promise or effect the delivery of issue or ward to a third party through payment or reward:

Penalty — confinement of one to four years and fine.

Paragraph. He who offers or effects the payment or reward is liable to the same penalties.

Art. 239. Foster or aid in the effecting of an act that has the objective of sending a child or adolescent abroad

without observance of the legal formalities or with the purpose of obtaining profit:

Penalty — confinement from four to six years and fine.

Art. 240. Produce or direct theater or television plays or cinema films, utilizing a child or adolescent in scenes of explicit or pornographic sex:

Penalty — confinement from one to four years and fine.

Paragraph. Under the conditions referred to in this article, those who participate with the child or adolescent are liable to the same penalty.

Art. 241. Photograph or publish scenes of explicit or pornographic sex involving a child or adolescent:

Penalty — confinement from one to four years.

Art. 242. Sell, supply — even when gratuitous — or delivery in any way weapons, ammunition or explosives to a child or adolescent:

Penalty — detention from six months to two years and fine.

Art. 243. Sell, supply — even when gratuitous — administer or deliver, in any way, to the child or adolescent and without just cause, products whose ingredients may cause physical or psychic dependence, including when used inappropriately:

Penalty — detention from six months to two years, and fine, if the fact does not constitute an aggravated crime.

Art. 244. Sell, supply — even when gratuitous — or deliver in any way fireworks or pyrotechnical devices to a child or adolescent, except those which, due to their reduced potential, are incapable of provoking any physical damage in the case of inappropriate utilization:

Penalty — detention from six months to two years and fine.

Chapter II

Administrative Infractions

Art. 245. Should the medical doctor, professor or element responsible for an institution of health assistance and basic education, preschool or day-care center, fail to notify the proper authority of cases of which he has become knowledgeable, involving suspicion or confirmation of maltreatment against a child or adolescent:

Penalty — fine of three to twenty reference wages and double that amount in the case of repetition.

Art. 246. Should the element responsible or employee of an assistance institution impede exercise of the rights stated in items II, III, VII, VIII and XI of art. 124 of this Law:

Penalty — fine of three to twenty reference wages and double that amount in the case of repetition.

Art. 247. Total or partial dissemination, without due authorization and by any communications media, of the name, or act or document of police, administrative or judicial proceedings related to the child or adolescent to whom an infraction is attributed:

Penalty — fine of three to twenty reference wages, and double that amount in the case of repetition.

Paragraph 1. He who exhibits, totally or partially, a photograph of a child or adolescent involved in an infraction, or any illustration relating to him or refers to acts attributed to him, in such a way as to permit his direct or indirect identification, is liable to the same penalty.

Paragraph 2. If the act is practiced by a press entity or radio or television station, aside from the penalty specified in this article, the judicial authority may determine apprehension of the publication or suspension of the programming of the station for up to two days, as well as of the publication of the periodical for up to two issues.

Art. 248. Failure to present the adolescent brought from another judicial district for the rendering of domestic services, even when authorized by the parents or guardian, to the judicial authority of his domicile within five days and with the purpose of normalizing custody.

Penalty — fine of three to twenty reference wages and double that amount in case of repetition, independently of the expenditures of the return of the adolescent, should this be the case.

Art. 249. Nonfulfillment, either willfully or culpably, of the duties inherent to paternal power or consequent upon custody or guardianship, as well as the determination of the judicial authority or Council of Guardianship:

Penalty — fine of three to twenty reference wages and double that amount in case of repetition.

Art. 250. Lodge a child or adolescent, unaccompanied by parents or guardian or without the written authorization of them, or of the judicial authority, in a hotel, hostelry, motel or the like:

Penalty — fine of ten to fifty reference wages; in the case of repetition, the judicial authority may determine the closing of the establishment for up to fifteen days.

Art. 251. Transport a child or adolescent by any means whatsoever, without observing the provision in articles 83, 84 and 85 of this Law:

Penalty — fine of three to twenty reference wages, and double that amount in case of repetition.

Art. 252. Should the element responsible for entertainment or public shows fail to exhibit in a visible place of easy access at the entry to the site of exhibition, clear information on the nature of the entertainment or show and the age bracket specified on the classification certificate:

Penalty — fine of three to twenty reference wages, and double that amount in case of repetition.

Art. 253. Announce theater plays, films or any representations or shows, without indicating the age limits for which they are recommended:

Penalty — fine of three to twenty reference wages and double that amount in case of repetition, the fine being applicable separately to the establishment and to the advertising or publicity entities.

Art. 254. Transmit shows by radio or television at a time different from that authorized or without notification of its classification:

Penalty — fine of twenty to one hundred reference wages; double that amount in case of repetition, it being permitted to the judicial authority to suspend the programming of the station for up to two days.

Art. 255. Exhibit films, previews, plays, samples or the like classified by the proper entity as inappropriate for the children or adolescents permitted to enter the show:

Penalty — fine of twenty to one hundred reference wages; in the case of repetition, the authority may determine the suspension of the show or the closing of the establishment for up to fifteen days.

Art. 256. Sell or rent to a child or adolescent video programming tapes, in disagreement with the classification attributed by the proper entity:

Penalty — fine of three to twenty reference wages; in the case of repetition, the judicial authority may determine the closing of the establishment for up to fifteen days.

Art. 257. Nonfulfillment of an obligation stated in articles 78 and 79 of this Law:

Penalty — fine of three to twenty reference wages, and double that amount in case of repetition, without prejudice to the apprehension of the magazine or publication.

Art. 258. Should the element responsible for the establishment or the businessman fail to observe the terms of this Law with respect to the access of children or adolescents to places of entertainment or to their participation in the show:

Penalty — fine of three to twenty reference wages; in the case of repetition, the judicial authority may determine the closing of the establishment for up to fifteen days.

FINAL AND TRANSITORY PROVISIONS

Art. 259. Within ninety days of the publication of this Statute, the Federal Government will elaborate a legislative bill treating of the creation or adaptation of its entities to the guidelines of the assistance policy determined in art. 88 and to that which is established in Title V of Book II.

Paragraph. It is the task of the states and municipalities to see to the adaptation of their entities and programs to the guidelines and principles established in this Law.

Art. 260. Income taxpayers may deduct from their gross earnings 100% (one hundred percent) of the value of donations made to the funds controlled by the municipal, state and national child and adolescent rights councils, with due observance of the following:

I — limit of 10% (ten percent) of the gross earnings for individuals;

II — limit of 5% (five percent) of the gross earnings for legal entities.

Paragraph 1. The deductions referred to in this article are not subject to other limits established in income tax legislation, nor do they exclude or reduce other benefits, discounts or deductions in effect, and particularly donations to public utility entities.

Paragraph 2. The municipal, state and national councils of child and adolescent rights will determine the utilization criteria through plans establishing the applications of the subsidies, donations and other revenues, and it is

obligatory to apply a percentage to encourage the acceptance, in the form of custody, of orphaned or abandoned children or adolescents, according to the terms of art. 227, paragraph 3, VI of the Federal Constitution.

Art. 261. In the absence of the municipal councils of child and adolescent rights, the records, registrations and alterations referred to in articles 90, paragraph, and 91 of this Law will be effected before the judicial authority of the judicial district to which the entity belongs.

Paragraph. As soon as the councils of child and adolescent rights are created at their respective levels, the Federal Government is authorized to transfer to the states and municipalities, and the states to the municipalities, the resources related to the programs and activities specified in this Law.

Art. 262. Until such time as the Councils of Guardianship have been installed, the duties attributed to them will be exercised by the judicial authority.

Art. 263. Decree Law no. 2,848, dated December 07, 1940 (Penal Code), shall henceforward have the following alterations:

«1) Art. 121.

Paragraph 4. In the case of involuntary manslaughter, the penalty is increased by one third, if the crime results in nonobservance of a technical rule of the profession, art or office, or if the agent fails to render immediate aid to the victim, does not seek to diminish the consequences of his act, or flees to avoid arrest in *flagrante delicto*. In the case of willful homicide, the penalty is increased by one third, if the crime is practiced against a minor of less than fourteen years of age.

2) Art. 129.

Paragraph 7. The penalty is increased by one third, if any of the cases of art. 121, paragraph 4 occurs.

Paragraph 8. The provision in paragraph 5 of art. 121 applies to physical harm.

3) Art. 136.

Paragraph 3. The penalty is increased by one third, if the crime is practiced against a minor of less than fourteen years of age.

4) Art. 213.

Paragraph. If the victim is a minor of less than fourteen years of age:

Penalty — confinement of four to ten years.

5) Art. 214.

Paragraph. If the victim is a minor of less than fourteen years of age:

Penalty — confinement from three to nine years.»

Art. 264. The following item is added to art. 102 of Law no. 6,015, dated December 31, 1973:

«Art. 102.

6º) the loss and suspension of paternal power.»

Art. 265. The «National Press» (Imprensa Nacional) and other Federal Government printing establishments of the direct or indirect administration, including foundations instituted and maintained by the federal public authority, will sponsor a popular edition of the full text of this Statute, which will be made available to schools and assistance entities and entities involved in the defense of child and adolescent rights.

Art. 266. This Law shall go into effect ninety days after its publication.

Paragraph. During the period between publication and entry into effect of this Law, dissemination and clarification campaigns regarding the provisions in this Law should be fostered.

Art. 267. Laws no. 4,513, dated 1964, and no. 6,697, dated October 10, 1979 (Code of Minors), and other provisions to the contrary are hereby revoked.

Brasília, July 13, 1990; 169th Year of Independence and 102nd of the Republic.

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