

Law No. 27337.- Approves the New Code for Children and Adolescents.

LAW No. 27337

THE PRESIDENT OF THE REPUBLIC

WHEREAS:

The Congress of the Republic has passed the following Law:

THE CONGRESS OF THE REPUBLIC;

He has given the following Law:

**LAW THAT APPROVES THE NEW CODE OF
CHILDREN AND ADOLESCENTS**

Sole Article.- Purpose of the Law

The New Code for Children and Adolescents is approved, with the following text:

CODE FOR CHILDREN AND ADOLESCENTS

PRELIMINARY TITLE

BOOK ONE

Rights and freedoms

BOOK TWO

National System of Comprehensive Care for Children
and Adolescents

BOOK THIRD

Family institutions

BOOK FOUR

Specialized administration of justice for children
and adolescents

TRANSITIONAL PROVISIONS

FINAL PROVISIONS

PRELIMINARY TITLE

Article I.- Definition.- A child is considered to be every human being from conception until reaching twelve years of age and an adolescent from twelve years of age until reaching eighteen years of age.

The State protects the unborn child for all purposes that benefit them. If there is any doubt about a person's age, they will be considered a child or adolescent until proven otherwise.

Concordances:

D.U. DD.HH: Art. 6º

Conv.D.N.: Art. 1º

C.C: Arts. 1º, 42º

C.P.: Art. 20º inc. 2)

C.P.C: Arts. 57º, 58º

Article II.- Subject of rights.- Children and adolescents are subjects of rights, freedoms, and specific protection. They must comply with the obligations enshrined in this standard.

Concordances:

CC: Arts. 1st, 3rd, 4th, 5th

CPC: Arts. 1st, 2nd, 57th, 58th

Article III.- Equal Opportunities.- For the interpretation and application of this Code, equal opportunities and non-discrimination to which all children and adolescents are entitled, regardless of sex, shall be considered.

Concordances:

D.U. DD.HH: Art. 6º

Conv.D.N.: Art. 28º

CNA: Art. 23
CC: 3rd, 4th, 5th

Article IV.- Capacity.- In addition to the rights inherent to the human person, children and adolescents enjoy specific rights related to their development process.
They have special capacity to carry out civil acts authorized by this Code and other laws.

The Law establishes the circumstances in which the exercise of these acts requires a regime of assistance and determines responsibilities.
In the event of a violation of criminal law, the child will be subject to protective measures and the adolescent to socio-educational measures.

Concordances:
D.U. DD.HH: Art. 6º
CNA: Arts. II, IX, 99º, 102º, 107º, 183º, 184º, 185º, 186º
CC: Arts. 1st, Arts. 3º, 4º, 5º 45º
CPC: Arts. 1st, 2nd, 57th, 58th

Article V.- General scope of application.- This Code shall apply to all children and adolescents in Peruvian territory, without any distinction based on race, color, sex, language, religion, political opinion, nationality, social origin, economic position, ethnicity, physical or mental disability, or any other condition, whether their own or that of their parents or guardians.

Concordances:
Conv.D.N.: Art. 2º
CC: 3rd, 5th
CPC: Arts. 1st, 2nd, 57th, 58th

Article VI.- Extension of the scope of application.- This Code recognizes that the obligation to care for children and adolescents extends to the mother and the family of the child.

Article VII.- Sources.- In the interpretation and application of this Code, the principles and provisions of the Political Constitution of Peru, the Convention on the Rights of the Child and other international conventions ratified by Peru shall be taken into account.
In all matters relating to children and adolescents, family institutions are governed by the provisions of this Code and the Civil Code, where applicable.
The provisions of the Civil Code, the Penal Code, the Code of Civil Procedure, and the Code of Criminal Procedure shall apply, where appropriate, in addition to this Code. In the case of children or adolescents belonging to ethnic groups or native or indigenous communities, their customs shall be observed, in addition to this Code and current legislation, provided that they do not contravene the rules of public order.

Concordances:
Conv. D.N.: Arts. 1º al 8º
C.N.A.: Art. X
CC: Arts. VIII, 1st to 5th
CPC: Arts. III, 1º, 2º, 57º, 58º

Article VIII.- Mandatory implementation.- It is the duty of the State, the family, public and private institutions and grassroots organizations to promote the correct application of the principles, rights and standards established in this Code and in the Convention on the Rights of the Child.

Concordances:
CNA: Art. II, IX
CC: Art. VII

Article IX.- Best Interests of the Child and Adolescent.- In all measures concerning children and adolescents adopted by the State through the Executive, Legislative and Judicial Branches, the Public Prosecutor's Office, Regional Governments, Local Governments and their other institutions, as well as in the actions of society, the Principle of the Best Interests of the Child and Adolescent and respect for their rights shall be considered.

Concordances:
Conv. D.N.: Art. 3º
CC: Art. 1

Article X.- Process as a Human Problem.- The State guarantees a specialized justice system for children and adolescents. Cases subject to judicial or administrative resolution involving children or adolescents shall be treated as human problems.

Concordances:
CNA: Art. VII
C.P.C.: Arts. III
TUOLOPJ: Art. 6, 7
CNA: Art. 4

BOOK ONE RIGHTS AND FREEDOMS

CHAPTER I CIVIL RIGHTS

Article 1.- To life and integrity.- Children and adolescents have the right to life from the moment of conception.
This Code guarantees the life of the conceived child, protecting it from experiments or genetic manipulations contrary to its integrity and its physical or mental development.

Concordances:
D.U. DD.HH: Art. 6º
Conv.D.N.: Art. 6º
C.C: Arts. 1º, 5º
C.P.C: Arts. 57º y 58º

Article 2.- To her care by the State from conception.- It is the State's responsibility to promote the establishment of adequate conditions for the care of the mother during pregnancy, childbirth, and the postnatal phase. The State shall provide specialized care to adolescent mothers and promote breastfeeding and the establishment of daycare centers. Society shall contribute to the implementation of these guarantees.

Concordances:
Conv.D.N.: Art. 2º
CC: Art. 1

Article 3.- To live in a healthy environment.- Children and adolescents have the right to live in a healthy and ecologically balanced environment.

Concordances:
Conv.D.N.: Art. 3º
C.N.A.: Arts. 144º inc. e), 160º inc. f)

Article 4.- To their personal integrity.- Children and adolescents have the right to respect for their moral, psychological, and physical integrity, as well as their free development and well-being. They may not be subjected to torture or cruel or degrading treatment.

Extreme forms that affect personal integrity include forced labor and economic exploitation, as well as forced recruitment, prostitution, trafficking, sale and smuggling of children and adolescents, and all other forms of exploitation.

Concordances:

Conv. D.N.: Arts. 3º, 7º, 19º, 34º, 35º, 36º, 37º inc. a)

C.C.: Arts. 1º, 5º

CP: Arts. 153º, 181º inc. 1)

Article 5.- To Liberty.- Children and adolescents have the right to liberty. No child or adolescent shall be detained or deprived of their liberty. Cases of detention by court order or flagrant violation of criminal law are excluded.

Concordances:

Conv.D.N.: Art. 37º inc. b)

CNA: Arts. 185th, 200th

CC: Art. 5

Article 6.- Identity.- Children and adolescents have the right to identity, which includes the right to have a name, to acquire a nationality, and, to the extent possible, to know their parents and bear their surnames. They also have the right to the comprehensive development of their personality.

The State is obligated to preserve the registration and identity of children and adolescents, punishing those responsible for their alteration, substitution, or illegal deprivation, in accordance with the Criminal Code.

In the event of such alteration, substitution or deprivation, the State will reestablish the true identity through the most appropriate mechanisms.

When a child or adolescent is found to be a victim, perpetrator, participant, or witness of an infraction, misdemeanor, or crime, their identity or image will not be published in the media.

Concordances:

Conv.D.N.: Arts. 7º, 8º

CC: Arts. 19th to 32nd, 418th

Article 7.- Registration.- Children shall be registered in the corresponding Civil Registry by their father, mother, or guardian immediately after birth. If this is not done within thirty days, the procedure established in Title VI of the Organic Law of the National Registry of Identification and Civil Status shall be followed.

The live birth certificate will include the mother's fingerprint identification and the newborn's pelmatoscopic identification, in addition to the data corresponding to the nature of the document.

The department in charge of the registry will issue, under its own responsibility and free of charge, the first birth certificate within a period not to exceed twenty-four hours from the moment of registration. (1)

(1) Article clarified by Art. 1 of RM No. 389-2004/MINSA, published on 04/23/2004.

Note: This regulation specifies that the issuance of the Live Birth Certificate is free of charge in all public and private health facilities in the country, as well as those issued by the health professionals or personnel who provided the care.

Concordances:

C.C.: Arts. 23º, 25º

Law No. 26497: Arts. 2nd, 40 al 58

Article 8.- To live in a family.- Children and adolescents have the right to live, grow and develop within their family.

Children and adolescents who lack a natural family have the right to grow up in a suitable family environment.

Children and adolescents may not be separated from their families except under special circumstances defined by law and for the sole purpose of protecting them. Parents must ensure that their children receive the necessary care for their proper overall development.

Concordances:

Conv.D.N.: Art. 9º

CNA: Arts. 74º, 75º, 77º, 98º, 104º, 115º, 235º, 252º

C.C.: Arts. 235º, 418º, 423º inc. 1), 2)

Article 9.- Freedom of opinion.- Children and adolescents who are capable of forming their own opinions shall have the right to freely express their opinions on all matters affecting them and by any means they choose, including conscientious objection, and to have their opinions taken into account based on their age and maturity.

Concordances:

Conv.D.N.: Art. 12º

CNA: Arts. 85º, 99º, 101º, 107º, 114º, 227º

Article 10.- Freedom of expression.- Children and adolescents have the right to freedom of expression in its various forms.

The exercise of this right will be subject to the restrictions determined by law.

Concordances:

Conv.D.N.: Arts. 4º, 13º, 14º

CC: Arts. 14th to 17th

Article 11.- Freedom of thought, conscience and religion.- Children and adolescents have the right to freedom of thought, conscience and religion.

The right of parents or guardians to guide children and adolescents in the exercise of this right, in accordance with their age and maturity, will be respected.

Concordances:

Conv.D.N.: Arts. 4º, 13º, 14º

CC: Arts. 14th to 17th

Article 12.- Free movement.- Children and adolescents have the right to freedom of movement, with the restrictions and authorizations indicated in Book Three of this Code.

Concordances:

CNA: Arts. 111th, 112th, 115th

Article 13.- To associate.- Children and adolescents have the right to freedom of association for lawful purposes and to assemble peacefully.

Only adolescents may form non-profit legal entities. Children may join such associations.

The special civil capacity of adolescents who form part of these legal entities only allows them to perform acts strictly related to their purposes, provided that they do not involve the disposition of assets.

These associations are recognized by local governments and can be registered in the public registries solely on the basis of the Municipal Resolution of recognition.

Concordances:

Conv.D.N.: Art. 15º

CNA: Arts. IV, 66º

C.C : Arts. 15º, 80º

CHAPTER II ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Article 14.- To education, culture, sports, and recreation.- Children and adolescents have the right to education. The State guarantees free public education for those with financial limitations. No child or adolescent should be discriminated against in an educational center due to their disability or the marital status of their parents. Pregnant or mothering girls and adolescents should not be prevented from beginning or continuing their studies.

The educational authority will adopt appropriate measures to prevent any form of discrimination.

Concordances:

Conv.D.N.: Arts.5º, 28º

Article 15.- Basic education.- The State guarantees that basic education includes:

- a) The development of the personality, aptitudes and mental and physical capacity of the child and adolescent, to their maximum potential;
- b) Respect for human rights and fundamental freedoms;
- c) The promotion and dissemination of the rights of children and adolescents;
- d) Respect for parents, one's own cultural identity, language, national values and the values of peoples and cultures other than one's own;
- e) Preparation for a responsible life in a free society, in a spirit of solidarity, understanding, peace, tolerance, equality between the sexes, friendship among peoples and ethnic, national and religious groups;
- f) Training in a democratic spirit and in the responsible exercise of rights and obligations;
- g) Sexual orientation and family planning;
- h) The development of autonomous, critical and creative thinking;
- (i) The training of children and adolescents for productive work and for the management of technical and scientific knowledge; and
- j) Respect for the natural environment.

Concordances:

Conv.D.N.: Art. 29º 1: a, b, c, d, e, 42

C.N.A.: Arts. 24º inc. a), b), j), f)

LGE: Arts. 14th to 19th

Article 16.- To be respected by their educators.- Children and adolescents have the right to be respected by their educators and to question their evaluative criteria, being able to resort to higher authorities if necessary.

Concordances:

Law No. 24029: Art. 13 inc. a)

Article 17.- To be enrolled in the regular education system.- Parents or guardians have the obligation to enroll their children or those under their care in the regular education system.

Concordances:

Conv.D.N.: Art. 20º

C.N.A.: Arts. 74º inc. b), c), 98º

CC: Arts. 235th, 423rd inc. 2)

Article 18.- Protection by the Directors of educational centers.- The Directors of educational centers shall communicate to the competent authority the cases of:

- a) Physical and psychological abuse, harassment, abuse and sexual violence against students;
- b) Repeated school repetition and dropout;
- c) Repeated unjustified absences;
- d) Consumption of toxic substances;
- e) Abandonment and other cases involving violation of the rights of children and adolescents;
- f) Academic performance of working children and adolescents; and,
- g) Other harmful events.

Concordances:

C.N.A.: Art. 29º inc. g), 45º inc. h)

Article 19.- Work modalities and schedules.- The State guarantees special school modalities and schedules that allow working children and adolescents to regularly attend their schools.

School principals will ensure that work does not affect student attendance and academic performance, and will periodically report to the competent authority on the performance of student workers.

Concordances:

Conv.D.N.: Art. 32º inc. 2. lit. b)

CNA: Arts. 22nd, 40th

Article 20.- Participation in cultural, sports, and recreational programs.- The State shall encourage and facilitate the use of resources and physical spaces for the implementation of cultural, sports, and recreational programs for children and adolescents. Municipalities shall channel resources and implement programs with the collaboration and support of civil society and social organizations.

Agreement:

Conv.D.N.: Art. 31º

Article 21.- Comprehensive health care.- Children and adolescents have the right to comprehensive health care, through the implementation of policies that allow their physical and intellectual development in adequate conditions.

When they are ill, have physical or mental limitations, are disabled, or are dependent on toxic substances, they will receive treatment and rehabilitation that will allow them to participate in the community according to their abilities.

It is the State's responsibility, with the collaboration and support of civil society, to develop the necessary programs to reduce mortality and prevent disease; educate families in hygiene and sanitation practices; and combat malnutrition, giving priority in these programs to children and adolescents in particularly difficult circumstances and to adolescent mothers during pregnancy and breastfeeding.

Concordances:

Conv.D.N.: Art. 29º

Article 22.- Adolescents' Right to Work.- Working adolescents shall be specially protected by the State. The State recognizes the right of adolescents to work, subject to the restrictions imposed by this Code, provided that there is no economic exploitation and their work activity does not pose a risk or danger, affect their educational process, or is harmful to their health or physical, mental, spiritual, moral, or social development.

Concordances:

Conv.D.N.: Art. 32º

CNA: Arts. 19th, 48th to 68th

CHAPTER III

RIGHTS OF CHILDREN AND ADOLESCENTS WITH DISABILITIES

Article 23.- Rights of children and adolescents with disabilities.- In addition to the rights enshrined in the Convention on the Rights of the Child and in this Code, children and adolescents with disabilities enjoy and exercise the rights inherent to their condition.

The State, preferably through the Ministries included in the National Council for Persons with Disabilities, and society will ensure equal opportunities to access conditions appropriate to their situation with adapted materials and services, such as health, education, sports, culture, and job training. Likewise, the full development of their personality to the maximum of their potential will be ensured, as well as the enjoyment of a full and dignified life, facilitating their active participation, equality, and opportunities in the community.

Concordances:

CNA: Art. 36

Conv.D.N.: Arts. 24º, 25º, 26º

CHAPTER IV DUTIES OF CHILDREN AND ADOLESCENTS

Article 24.- Duties.- The duties of children and adolescents are:

- a) Respect and obey their parents or those responsible for their care, as long as their orders do not violate their rights or contravene the laws;
- b) Study satisfactorily;
- c) To care for, to the extent possible, their ancestors in their illness and old age;
- d) Provide assistance at home, according to their age;
- e) Respect public and private property;
- f) Conserve the environment;
- g) Take care of your personal health;
- h) Do not consume psychotropic substances;
- (i) Respect the ideas and rights of others, as well as religious beliefs different from their own; and
- j) Respect the country, its laws, symbols and heroes.

Concordances:

Conv.DN: General Rules

C.N.A.: Art. 15º inc. d), e), h)

CC: Art. 454

CHAPTER V WARRANTIES

Article 25.- Exercise of rights and freedoms.- The State guarantees the exercise of the rights and freedoms of children and adolescents enshrined in the law, through the policy, measures and permanent and sustained actions contemplated in this Code.

Concordances:

Conv.D.N.: Art. 4º

CNA: Art. 28

CC: Art. 3

L.O.M.P.: Art. 1º

Article 26.- Dissemination of the rights contained in this Code.- The Ministry for the Promotion of Women and Human Development (PROMUDEH) will promote, in the media,

Mass media, spaces dedicated to disseminating the rights of children and adolescents. For these purposes, it may sign cooperation agreements.

Concordances:

Conv.D.N.: Arts. 17º, 42º

D.Leg No. 866: Art.2

DS No. 001-97-PROMUDEH: Art. 3

BOOK TWO

NATIONAL SYSTEM OF COMPREHENSIVE CARE FOR CHILDREN AND ADOLESCENTS

CHAPTER I

NATIONAL SYSTEM AND GOVERNING ENTITY

Article 27. Definition. The National System for Comprehensive Care for Children and Adolescents is the set of public and private bodies, entities, and services that formulate, coordinate, supervise, evaluate, and execute programs and actions developed for the protection and promotion of the rights of children and adolescents. The system operates through a coordinated set of inter-institutional actions developed by public and private institutions.

Concordances:

Conv.D.N.: Art. 4º

D.Leg No. 866: Art.

DS No. 01-97-PROMUDEH: Art.4º

Article 28.- System Management and Governing Body.- The Ministry for the Promotion of Women and Human Development (PROMUDEH) manages the system as the governing body. The execution of plans and programs, the application of care measures it coordinates, as well as protective investigations and measures, are all within the administrative sphere. PROMUDEH is headed by a technician specializing in children and adolescents.

Concordances:

D.Leg No. 866: Art.

DS N° 01-97-PROMUDEH: Arts. 14th, 15th

Article 29.- Functions

The Ministry of Women and Social Development (MIMDES) as the governing body of the System:

- a) Formulates, approves and coordinates the execution of policies aimed at the comprehensive care of children and adolescents;
 - b) Dictates national and general technical and administrative standards on child and adolescent care;
 - c) Opens protective investigations into children and adolescents in situations of abandonment and applies the corresponding measures;
 - d) Directs and coordinates the National Adoption Policy through the National Adoption Secretariat and the decentralized offices at the regional level;
 - e) Keep records of private and community organizations dedicated to children and adolescents;
 - f) Regulates the operation of public, private and communal organizations that implement programs and actions aimed at children and adolescents, as well as supervises and evaluates the fulfillment of their purposes;
 - g) Ensures compliance with the standards contained in the Convention on the Rights of the Child, this Code and national legislation;
 - h) Channel to the competent authorities any facts that become known to him/her that give rise to the presumption of a crime or misdemeanor committed against children and adolescents; and,
 - i) All others that correspond to it according to law. (2)
- (2) Article modified by Art. 1 of Law No. 28330, published on 08/14/2004

Article 30.- Inter-institutional actions.- PROMUDEH will coordinate and guide the inter-institutional actions of the National Comprehensive Care System that are carried out through various public and private organizations.

Concordances:

CNA: Arts. 70th, 119th

D.Leg No. 866: Art. 5

Article 31.- Decentralization.- Regional and local governments shall establish, within their respective jurisdictions, technical entities similar to the Governing Body of the system, which shall be responsible for the regulation, records, supervision, and evaluation of the actions carried out by the executive bodies. PROMUDEH shall coordinate the performance of their functions with these regional and local technical entities.

CHAPTER II COMPREHENSIVE CARE POLICY AND PROGRAMS TO THE CHILD AND THE ADOLESCENT

Article 32.- Policy.- The policy for the promotion, protection and care of children and adolescents is the set of public guidelines and directives issued by PROMUDEH, whose main objective is to guarantee their rights enshrined in the regulations.

Concordances:

Conv.D.N.: Art. 27º

CNA: Arts. VIII, 25th, 27th

Article 33.- Program development.- The policy for the care of children and adolescents will be oriented towards developing:

- a) Prevention programs that guarantee adequate living conditions;
- b) Promotion programs that motivate their participation and that of their family and that allow them to develop their potential;
- c) Protection programs that ensure timely attention when facing risk situations;
- d) Assistance programs to meet their needs when they find themselves in especially difficult circumstances;
- e) Rehabilitation programs that allow for physical and mental recovery and offer specialized care.

Concordances:

Conv.D.N.: Art. 27º

Article 34.- Conditions for the development of plans and programs.- Plans, programs and actions will be developed taking into account the social and cultural situation of children and adolescents, in accordance with the national policy dictated by PROMUDEH.

Concordances:

CNA: Art. 33

D.Leg No. 866: Art.

Article 35.- Special programs.- PROMUDEH will develop special programs for children and adolescents who have peculiar characteristics of their person or derived from a social circumstance.

Concordances:

Legislative Decree No. 866: Art. 3, item c)

Article 36.- Programs for children and adolescents with disabilities.- Children and adolescents with disabilities, whether temporary or permanent, have the right to receive assisted and permanent care, under the responsibility of the Health Sector. They have the right to specialized education and job training, under the responsibility of the Education and Labor Sectors.

Abandoned disabled people have the right to permanent assisted care under the responsibility of PROMUDEH.

Concordances:

Conv.D.N.: Art. 23º inc. 2), 3)

D.Leg N° 866:Art. 3º inc. b)

Article 37.- Programs for children and adolescents addicted to psychotropic substances.- Children and adolescents addicted to psychotropic substances that produce dependency will receive specialized treatment from the Health Sector.

PROMUDEH promotes and coordinates prevention, treatment, and rehabilitation programs for these children and adolescents between the public and private sectors.

Concordances:

Conv.D.N.: Arts. 24º, 33º

Article 38.- Programs for abused children and adolescents or victims of sexual violence.- Children and adolescents who are victims of physical or psychological abuse or sexual violence deserve comprehensive care through programs that promote their physical and psychological recovery. The service is provided by the Health Sector. These programs must include the family.

The State guarantees respect for the rights of victims in all police and judicial proceedings. PROMUDEH promotes and establishes public and private preventive protection and care programs aimed at preventing, addressing, and reducing the effects of violence directed against children and adolescents.

Concordances:

Conv.D.N.: Art. 19º inc. 1), 34º

Article 39.- Programs for children and adolescents who are victims of armed violence or displaced persons.- Children and adolescents who are victims of armed violence and/or displaced from their place of origin shall be served through national specialized assistance programs. PROMUDEH shall convene competent national and international public and private organizations to implement these programs.

Concordances:

Conv.D.N.: Arts. 19º inc. 1), 37º

Article 40.- Programs for children and adolescents who work and live on the streets

Working children and adolescents will participate in programs aimed at ensuring their educational progress and their physical and psychological development.

Children and adolescents living on the streets have the right to participate in comprehensive care programs aimed at eradicating homelessness and ensuring their educational progress and physical and psychological development.

The Ministry of Women and Social Development, in coordination with the Regional and Local Governments, will be responsible for the promotion and implementation of these programs, which are developed through a training process that includes strengthening their links with the family, school and community. (3)

(3) Article modified by the 1st Final Provision of Law No. 28190, published on 03/18/2004.

Concordances:

Conv.D.N.: Art. 32º

CNA: Arts. 22nd, 48th to 68th

Article 41.- Programs for children and adolescents who lack family or are in extreme poverty.- Children and adolescents who benefit from programs, when they lack family or are in a situation of extreme poverty, will be integrated into the assistance programs of public or private organizations.

Concordances:

CNA: Arts. 33, 34

CHAPTER III CHILD AND ADOLESCENT DEFENDER

Article 42. Definition. The Office of the Ombudsman for Children and Adolescents is a service of the Comprehensive Care System operating in local governments, public and private institutions, and civil society organizations. Its purpose is to promote and protect the rights of children and adolescents recognized by law. This service is free of charge.

Article 43 - Administrative Body.- This Ombudsman's Office shall act in the administrative bodies of public and private institutions serving children and adolescents.

Article 44.- Members.- The Ombudsman's Office shall be composed of professionals from various disciplines of recognized moral standing, with the support of persons trained to perform the functions of the service, who shall act as Promoters-Defenders.
Ombudsman's Offices that do not have professionals may be staffed by members of the community who are duly trained and accredited to perform their duties.

Concordances:

CNA: Art. 45

Article 45.- Specific functions.- The functions of the Ombudsman's Office are:

- a) To know the situation of children and adolescents who are in public or private institutions;
- b) Intervene when their rights are threatened or violated to ensure that the principle of best interests prevails;
- c) Promote the strengthening of family ties. To this end, it may conduct out-of-court conciliations between spouses, parents, and relatives regarding alimony, custody, and visitation rights, provided there are no ongoing legal proceedings on these matters;
- d) To know about family placement;
- e) Promote voluntary recognition of parentage;
- f) Coordinate care programs for the benefit of working children and adolescents;
- g) Provide multidisciplinary guidance to the family to prevent critical situations, provided there are no prior judicial proceedings; and,
- h) Report to the competent authorities any misdemeanors and crimes committed against children and adolescents.

Concordances:

CNA: Arts. 44th, 79th

Article 46.- Organization and registration.- Public and private institutions serving children and adolescents shall organize the Ombudsman's Office according to the services they provide and shall request its registration with PROMUDEH.

Article 47.- Labor regime.- The organization and operation of the Ombudsman's Office, as well as

The labor regime of the defenders will be subject to the provisions of the public or private sector that govern the institution in which they provide the service.

CHAPTER IV REGIME FOR WORKING ADOLESCENTS

Article 48.- Scope of application.- Adolescents who work as employees or as employees are covered by this Code. This includes those who perform homework and those who are self-employed or independently, as well as those who perform unpaid domestic work and family labor.
It excludes from its scope the work of apprentices and trainees, which is governed by its own laws.

Concordances:
Conv.D.N.: Art. 32º
CNA: Arts. 19th, 22nd

Article 49.- Institutions responsible for the protection of working adolescents.- The protection of working adolescents is the responsibility of PROMUDEH in a coordinated and complementary manner with the Labor, Health and Education Sectors, as well as with the Regional and Municipal Governments.
PROMUDEH dictates the care policy for working adolescents.

Concordances:
CNA: Arts. 22nd, 28th

Article 50.- Authorization and registration of adolescent workers.- Adolescents require authorization to work, except in the case of unpaid family workers.
In the case of an unpaid family worker, the family head will register the working adolescent in the corresponding municipal registry.
The data indicated in Article 53 of this Code shall be entered into the registry.

Concordances:
CNA: Arts. 53, 57, 63

Article 51.- Ages required to work in certain activities
The minimum ages required to authorize the work of adolescents are as follows:
1. In the case of work carried out as an employee or in a dependent relationship:
a) Fifteen years for non-industrial agricultural work;
b) Sixteen years for industrial, commercial or mining work; and,
c) Seventeen years for industrial fishing work.
2. For other types of work, the minimum age is fourteen. Exceptionally, authorization will be granted for persons aged twelve and over, provided that the work to be performed does not harm their health or development, nor interfere with or limit their attendance at educational centers, and allows for their participation in guidance or vocational training programs. It is presumed that adolescents are authorized by their parents or guardians to work when they live with them, unless expressly stated otherwise by them. (4)
(4) Article modified by the Sole Article of Law No. 27571, published on 05/12/2001

Concordances:
Conv.D.N.: Art. 32º inc. 2:a)
CNA: Art. 50

Article 52.- Authority to authorize the work of adolescents.- The following have the authority to register, authorize and supervise the work of adolescents who are of the ages indicated in the preceding article:

- a) The Employment Sector, for work carried out on another's account or on an employment basis; and,
- b) District and provincial municipalities within their jurisdictions, for domestic workers, self-employed or working independently and within their jurisdiction.

Registration will be free of charge for all types of work.

Concordances:

CNA: Art. 54

Article 53.- Registry and data to be recorded.- The institutions responsible for authorizing the work of adolescents shall keep a special registry in which the following shall be recorded:

- a) Full name of the adolescent;
- b) Name of your parents, guardians or responsible persons;
- c) Date of birth;
- d) Address and place of residence;
- e) Work performed;
- f) Remuneration;
- g) Working hours;
- h) School attended and study schedule; e,
- i) Medical certificate number.

Article 54.- Authorization.- The requirements for granting authorization for the work of adolescents are:

- a) That work does not disrupt regular school attendance;
- b) A medical certificate confirming the adolescent's physical, mental, and emotional capacity to perform the tasks. This certificate will be issued free of charge by the medical services of the Health Sector or Social Security; and
- c) That no adolescent be admitted to work without proper authorization.

Article 55.- Medical Examination.- Working adolescents are subject to periodic medical examinations. For independent and domestic workers, the examinations will be free of charge and will be provided by the Health Sector.

Article 56.- Working day.- The work of adolescents between the ages of twelve and fourteen shall not exceed four hours per day or twenty-four hours per week. The work of adolescents between the ages of fifteen and seventeen shall not exceed six hours per day or thirty-six hours per week.

Concordances:

Conv.D.N.: Art. 32º inc. b)

Article 57.- Night work.- Night work is defined as work performed between 7:00 p.m. and 7:00 a.m. The judge may exceptionally authorize night work for adolescents from the age of fifteen until they reach eighteen, provided that it does not exceed four hours per day. Outside of this authorization, night work for adolescents is prohibited.

Concordances:

Conv.D.N.: Art. 32º inc. 2:b)

Article 58.- Prohibited work.- Adolescents are prohibited from working underground, in tasks that involve handling excessive weights or toxic substances, and in activities where their safety or that of others is their responsibility.

PROMUDEH, in coordination with the Labor Sector and consultation with labor and business associations, will periodically establish a list of dangerous or hazardous jobs and activities.

harmful to the physical or moral health of adolescents, in which they should not be involved.

Concordances:

CNA: Arts. 57th, 70th

Article 59.- Remuneration.- Adolescent workers shall not receive lower remuneration than other workers in the same category in similar jobs.

Article 60.- Working Adolescent's Record Book.- Working adolescents must be provided with a record book issued by the person who issued the work permit. It shall contain the information specified in Article 53 of this Code.

Concordances:

CNA: Art. 53

Article 61.- Facilities and benefits for working adolescents.- Employers who hire adolescents are obliged to grant them facilities that make their work compatible with regular school attendance.

The right to paid vacation will be granted during school vacation months.

Article 62.- Registry of establishments that hire adolescents.- Establishments that hire adolescents to work must keep a registry containing the data indicated in Article 53 of this Code.

Concordances:

CNA: Art. 53

Article 63.- Unpaid domestic or family work.- Adolescents who work in domestic service or perform unpaid family work have the right to a continuous twelve-hour rest period per day. Employers, employers, parents, or relatives are obligated to provide them with every facility to ensure their regular school attendance.

The specialized judge is responsible for reviewing compliance with the provisions regarding adolescent home-based work.

Article 64.- Social Security.- Adolescents working under any of the modalities covered by this Law are entitled to compulsory social security, at least in the health benefits system. It is the obligation of employers, in the case of employed workers and domestic workers, and of the head of household, in the case of unpaid family workers, to comply with these provisions.

Self-employed adolescents can qualify for this benefit by paying only 10% of the fee corresponding to an employee in a dependent employment relationship.

Concordances:

Conv.D.N.: Art. 26º

CNA: Art.22

Article 65.- Capacity.- Working adolescents may claim, without the need for a representative and before the competent authority, compliance with all legal regulations related to their economic activity.

Concordances:

CNA: Arts. IV, 13th, 22nd

CC: Arts. 3rd, 4th, 12th

C.P.C: Arts. 57º y 58º

YOUR LFE: Art. 35º

Article 66.- Exercise of collective labor rights.- Adolescents may exercise collective labor rights and may join or form unions by production unit, branch, trade, or work area. These unions may join higher-level organizations.

Concordances:

CNA: Arts. 13th, 22nd

Article 67.- Municipal employment programs.- The employment training programs promoted by municipalities, in compliance with the Organic Law of Municipalities, have as their main beneficiaries the adolescents registered in the respective municipality.

Article 68.- Training programs.- The Labor Sector and the municipalities will create special job training and vocational guidance programs for working adolescents.

CHAPTER V VIOLATIONS AND PENALTIES

Article 69.- Definition.- Violations are all those actions or omissions that violate the exercise of the rights of children and adolescents indicated in the law.

Concordances:

CNA: Arts. II, III, 137th inc. its)

Article 70.- Administrative Jurisdiction and Responsibility.- It is the jurisdiction and responsibility of PROMUDEH, the Office of the Ombudsman for Children and Adolescents, and Local Governments to monitor compliance and apply administrative sanctions within their jurisdiction when the rights of children and adolescents are threatened or violated.

Responsible officials will be subject to fines and will be required to pay damages for non-compliance with these provisions, without prejudice to any applicable criminal penalties.

Concordances:

CNA: Arts. 28th, 42nd, 136th

LOMP: Arts. 1st, 3rd, 5th, 11th, 14th

Article 71.- Intervention of the Public Prosecutor's Office.- The Public Prosecutor's Office, through the Specialized Prosecutor and the Crime Prevention Prosecutor, shall monitor compliance with this Law.

Concordances:

LOMP: Arts. 1st, 3rd, 6th, 9th, 11th, 14th

Article 72.- Jurisdictional intervention.- Specialized judges are empowered to apply the corresponding judicial sanctions, with the intervention of the representative of the Public Prosecutor's Office.

Concordances:

C.N.A.: Art. 137º inc. e)

Article 73.- Role of regional and local governments.- Regional and local governments shall issue the complementary regulations required by this Law, establishing administrative provisions and sanctions appropriate to the peculiarities and specificities of children and adolescents in their region or locality.

**BOOK THIRD
FAMILY INSTITUTIONS**

**TITLE I
THE FAMILY AND THE ADULTS RESPONSIBLE FOR
CHILDREN AND ADOLESCENTS**

**CHAPTER I
PARENTAL AUTHORITY**

Article 74.- Duties and rights of parents.- The duties and rights of parents exercising parental authority are: a) To ensure their comprehensive development; b) To provide for their support and education; c) To direct their educational process and job training in accordance with their vocation and aptitudes; d) To set good life examples for them and to correct them moderately. When their action is not sufficient, they may resort to the competent authority; e) To keep them in their company and resort to the authority if necessary to recover them; f) To represent them in acts of civil life until they acquire the capacity to exercise and civil responsibility; g) To receive assistance from them, taking into account their age and condition and without impairing their care; h) To administer and enjoy the use of their assets, if they have any; and, i) In the case of products, the provisions of Article 1004 of the Civil Code.

Agreements: CNA:

Art.9

CC: Arts. 235º, 418º, 423º, 424º

Article 75.- Suspension of Parental Authority.- Parental authority is suspended in the following cases:

a) By the interdiction of the father or mother arising from causes of a civil nature; b) By judicially declared absence of the father or mother; c) By giving them orders, advice or examples that corrupt them; d) By allowing them to be lazy or dedicating them to begging; e) By physically or mentally mistreating them; f) By refusing to provide them with food; g) By separation or divorce of the parents, or by invalidity of the marriage in accordance with Articles 282 and 340 of the Civil Code.

Concordances: CC:

Arts. 49º, 340º, 422º, 463º, 466º, 470º

Article 76.- Validity of Parental Authority.- - In cases of conventional separation and subsequent divorce, neither parent is suspended in the exercise of Parental Authority.

Agreement: CC:

Arts. 340th, 345th, 355th

Article 77.- Extinction or loss of parental authority.- Parental authority is extinguished or lost:

a) By the death of the parents or the child;
b) Because the adolescent reaches the age of majority;
c) By a judicial declaration of abandonment; d) By having been convicted of a willful crime committed against or to the detriment of his or her children; e) By repeating the causes indicated in sections c), d), e) and f) of Article 75; and,

f) When the child's incapacity ceases, in accordance with Article 46 of the Civil Code. (5)

(5) Article replaced by the sole Article of Law No. 27473 published on 06/06/2001.

Agreement:

Conv.D.N.: Arts. 1º, 9º

C.N.A.: Arts. 75º inc. c), d), e) y f), 248 inc. b) al i), 249º

CC: Arts. 46º, 418º, 422º, 461º, 462º, 470º

L. N° 27473: Unique Art.

Article 78.- Restoration of Parental Authority.- Parents whose exercise of Parental Authority has been suspended may request its restitution when the cause that motivated it ceases.

The specialized judge must evaluate the appropriateness of restoring parental authority based on the principle of the best interests of the child and adolescent.

Concordances:

CNA: Arts. 75th, 160th

C.C: Arts. 340º, 471º

Article 79.- Request for suspension or loss of parental authority.- Parents, ascendants, siblings, guardians or any person with a legitimate interest may request the suspension or loss of parental authority.

Agreement:

CNA: Art. 80

Article 80.- Power of the Judge.- The specialized Judge in any stage of the case shall place the child or adolescent in the care of a family member or other person who meets the conditions of suitability, if necessary, with the knowledge of the Public Prosecutor's Office.

The Judge will set in the sentence the alimony that the obligor must pay.

When the child or adolescent has his or her own property, the Judge will proceed according to the rules contained in the Civil Code.

Concordances:

C.C.: Arts. 340º, 426º

CHAPTER II CHILD AND ADOLESCENT CUSTODY

Article 81. Custody. When parents are separated, custody of children and adolescents shall be determined by mutual agreement between them, taking into account the views of both the child and adolescent. If there is no agreement, or if it is detrimental to the children, custody shall be resolved by a specialized judge, who shall issue the necessary measures for its enforcement.

Concordances:

C.N.A.: Art. 160º inc. b)

C.C.: Arts. 340º

Article 82.- Change in Custody.- If a change in custody is necessary, the Judge shall order, with the advice of the multidisciplinary team, that it be carried out progressively so as not to cause harm or disturbance.

Only when circumstances warrant it because their safety is at risk, will the Judge, in a reasoned decision, order that the judgment be carried out immediately.

Concordances:

C.C.: Arts. 340º, 422º

Article 83.- Petition.- The father or mother whose child is taken away by their spouse or partner or who wishes to have their right to Custody and Ownership recognized, shall file their petition by attaching the identification document, the birth certificate and the relevant evidence.

Concordances:

CNA: Arts. 150th, 153rd
CC: Arts. VI, 418º, 419º, 421º
CP: Art. 147
C.P.C.: Art. IV

Article 84.- Power of the Judge.- In the event that there is no agreement on Custody, the Judge will resolve taking into account the following:

- a) The child must remain with the parent with whom he or she lived the longest, provided that it is favorable to him or her;
- b) The child under three years of age will remain with the mother; and,
- c) For those who do not obtain Custody or Custody of the child or adolescent, a Visitation Regime must be established.

Concordances:

CC: Arts. 340º, 419º, 420º, 421º

Article 85.- Opinion.- The specialized judge must listen to the opinion of the child and take into account that of the adolescent.

Concordances:

CNA: Arts. IV, 9th
Conv.D.N.: Art. 12º inc. 2)

Article 86.- Modification of Resolutions.- The resolution on possession may be modified due to duly verified circumstances. The request must be processed as a new action.

This action may be brought six months after the original resolution, unless the safety of the child or adolescent is at risk.

Concordances:

CC: Arts. 410º, 420º, 421º
C.P.C.: Arts. 406º, 407º

Article 87.- Provisional Custody.- Provisional Custody may be requested if the child is under three years of age and his or her physical integrity is in danger, and the Judge must make a decision within twenty-four hours.

In other cases, the Judge will decide taking into account the report of the Multidisciplinary Team, following the prosecutor's opinion.

This action is only possible at the request of the parent who does not have custody of the child.

The request for Provisional Custody as a precautionary measure outside of the process is not admissible.

Concordances:

C.C.: Arts. 422º, 470º
L.O.M.P: Art. 96º inc. 2)

CHAPTER III

Visitation Regime

Article 88.- Visits.- Parents who do not exercise parental authority have the right to visit their children, for which they must provide sufficient evidence of compliance or impossibility of compliance with the maintenance obligation. If one of the parents has

deceased, is found away from home or his whereabouts are unknown, relatives up to the fourth degree of consanguinity of said father may request the Visitation Regime.

The Judge, respecting the parents' agreement as much as possible, will establish a visitation regime that is appropriate to the Principle of the Best Interests of the Child and Adolescent and may vary it according to the circumstances, to safeguard their well-being.

Concordances:

Conv.D.N.: Art. 9º inc. 3)

C.C.: Arts. 287º, 422º, 423º inc. 1)

Article 89.- Visitation Regime.- The father or mother who has been prevented or limited from exercising the right to visit his or her child may file the corresponding claim, attaching the birth certificate that proves his or her relationship.

If the case requires it, you may request a provisional regime.

Concordances:

CNA: Art. 161

CC: Arts. VI, 422º, 470º

Article 90.- Extension of the Visitation Regime.- The Visitation Regime decreed by the Judge may be extended to relatives up to the fourth degree of consanguinity and second degree of affinity, as well as to non-relative third parties when the Best Interest of the Child or Adolescent so justifies.

Concordances:

CC: Art. 236

Article 91.- Failure to Comply with the Visitation Schedule.- Failure to comply with the judicially established Visitation Schedule will result in legal penalties and, in the event of resistance, may result in a change in custody. The request for a change must be processed as a new action before the judge who heard the original case.

Concordances:

CNA: Art. 181º

CHAPTER IV FOOD

Article 92. Definition. Food is considered to be anything necessary for the child's or adolescent's sustenance, housing, clothing, education, instruction and training for work, medical care, and recreation. It also includes the mother's pregnancy expenses from conception through the postpartum period.

Concordances:

C.C.: Arts. 414º, 472º

Article 93.- Persons obligated to provide support.- Parents are obligated to provide support for their children. In the event of parents' absence or their whereabouts are unknown, they shall provide support in the following order of priority:

1. Older siblings;
2. Grandparents;
3. Collateral relatives up to the third degree; and,
4. Others responsible for the child or adolescent.

Concordances:

C.N.A.: Arts. 74º inc. a), b), 98º

C.C.: Arts. 235º, 423º inc. 1), 474º, 475º, 478º

Article 94.- Subsistence of the obligation to provide support.- The obligation to provide support of parents continues in the event of suspension or loss of parental authority.

Concordances:

CC: Art. 470º

Article 95.- Conciliation and apportionment.- The alimony obligation may be apportioned among the obligated parties if, in the opinion of the Judge, they are materially unable to fulfill said obligation individually.

In this case, the obligated parties may agree on the apportionment through a conciliation convened by the responsible party. This will be submitted to the Judge for approval.

The apportionment action may also be initiated by alimony creditors if the payment of alimony is unenforceable.

Concordances:

CC: Art. 477

C.P.C.: Arts. 570º, 571º

Article 96.- Jurisdiction.- The Magistrate is competent to hear claims in proceedings for the establishment, increase, reduction, termination or apportionment of alimony, without prejudice to the amount of the pension, age or evidence of family ties, unless the alimony claim is proposed as an accessory to other claims.

The Justice of the Peace shall also have jurisdiction, at the plaintiff's choice, with respect to claims where the connection is indubitably proven. The Family Judge shall have jurisdiction to hear these proceedings in the second instance in cases that have been heard by the Learned Justice of the Peace, and the latter shall have jurisdiction in cases that have been heard by the Justice of the Peace. (6)

(6) Article modified by Art. 3 of Law No. 28439, published on 12/28/2004.

Concordances:

CPC: Art. 547

Article 97.- Impediment.- The defendant for alimony cannot initiate a subsequent Custody process, except for a duly justified cause.

Concordances:

C.C.: Arts. 423º inc. 7), 463º inc. 3)

CHAPTER V GUARDIANSHIP AND FAMILY COUNCIL

Article 98.- Rights and duties of the guardian.- The rights and duties of the guardian are those prescribed in this Code and in current legislation.

Concordances:

CNA: Art. 74

CC: Arts. 235º, 418º, 423º, 526º, 529º, 540º

Article 99.- Appeal against the guardian's actions.- The adolescent may appeal to the Judge against the acts of his guardian, as well as request his removal.

Concordances:

CNA: Arts. IV, 9th

CC: Arts. VI, 530º, 537º, 554º, 557º, 558º, 559º

CPC: Arts. IV, 57º, 58º

Article 100.- Competent Judge.- The specialized Judge is competent to appoint a guardian and is responsible for periodically supervising the performance of his duties.

Concordances:

CNA: Art. 136

C.C.: Arts. 512º, 514º, 520º inc. 3), 555º

YOUR LOPJ: Art. 53º

Article 101.- Family Council.- There shall be a Family Council to look after the person and interests of the child or adolescent who has no father or mother or who is incapacitated, as provided for in Article 619 of the Civil Code.

Concordances:

CC: Arts. 341º, 426º, 427º, 428º, 467º, 531º, 532º, 560º, 609º, 619º to 659º

Article 102.- Participation of adolescents in the Family Council.- Adolescents shall participate in Family Council meetings with the right to speak and vote. Children shall be heard subject to age-appropriate restrictions.

Concordances:

C.N.A.: Art. 162º inc. b)

CC: Arts. 449º, 528º, 533º, 542º, 646º

Article 103.- Process.- The processing of everything concerning the Family Council is governed by the provisions of Article 634 of the Civil Code and what is stated in this Code.

Concordances:

C.C.: Arts. 622º, 634º

CHAPTER VI FAMILY PLACEMENT

Article 104.- Family Placement.- Through Family Placement, the child or adolescent is taken in by a person, family or institution that is temporarily responsible for him or her.

This measure may be ordered by the administrative or judicial authority and may be paid or free.

In the adoption process, it is applied as a measure of acclimatization and protection for children or adolescents when their living environment endangers their physical or mental integrity. In the latter case, the measure is ordered by PROMUDEH or an authorized institution.

Concordances:

Conv.D.N.: Art. 20º inc. 3)

CC: Art. 514

Article 105.- Criteria for Family Placement.- PROMUDEH or the institutions authorized by it may decide on the placement of the child or adolescent. To this end, they must consider the degree of kinship and, necessarily, the relationship of affinity or affection with the person, family, or institution that intends to assume their care, giving preference to those located in their local area.

Concordances:

CC: Art. 236

Article 106.- Residence of the foster family.- Foster placement will only take place with families residing in Peru, except in cases of administrative adoption procedures for children or adolescents declared to be abandoned.

Article 107.- Removal of the Family Placement measure.- The child or adolescent under Family Placement may request the removal of said measure before the authority that granted it.

Concordances:

CNA: Arts. IV, 9th

CC: Arts. 554º, 557º, 558º, 559º

Article 108.- Selection, training and supervision of families.- PROMUDEH or the authorized institutions that conduct Family Placement programs select, train and supervise the individuals, families or institutions that host children or adolescents.

Concordances:

CNA: Art. 28

CHAPTER VII LICENSE TO TRANSFER OR ENCUMBRANCE PROPERTY

Article 109.- Authorization.- Those who manage the assets of children or adolescents need judicial authorization to encumber or transfer them for justified reasons of need or utility in accordance with the Civil Code.

Concordances:

C.C.: Arts. 447º, 448º, 532º, 647º inc. 9)

Article 110. Evidence. The administrator shall submit to the Judge, along with the complaint, evidence proving the necessity or usefulness of the contract. He shall also indicate the assets he intends to alienate or encumber.

Concordances:

C.P.C.: Arts. 192º, 193º

CHAPTER VIII AUTHORIZATIONS

Article 111.- Notarial.- For children or adolescents to travel outside the country alone or accompanied by one of their parents, the authorization of both parents with notarial certification is mandatory.

In the event of the death of one of the parents or if the child is recognized by only one of them, the consent of the surviving parent or the person who made the recognition will be sufficient, and the notarial permission must state that the corresponding death or birth certificate has been seen.

If the trip is made within the country, authorization from one of the parents will be sufficient.

Article 112.- Judicial.- It is the responsibility of the specialized judge to authorize the travel of children or adolescents within the country when both parents are absent, and outside the country due to the absence or disagreement of one of them, for which the responsible party will present the supporting documents for the request.

In the event of disagreement by one of the parents or opposition to the trip, the incident will be opened for trial, and the judge will rule within two days, following a prosecutor's opinion. Any objection filed by either parent will be recorded in the Travel Objection Book of the Specialized Courts, which expires after one year.

Concordances:

C.N.A.: Art. 162º d)

CC: Art. 419

CHAPTER IX TEENAGE MARRIAGE

Article 113.- Marriage.- The specialized Judge authorizes the marriage of adolescents, in accordance with the provisions of the pertinent articles of the Civil Code.

Concordances:

C.C.: Art. 244º al 247º

Article 114.- Recommendation.- Before granting authorization, the Judge will listen to the opinion of the contracting parties and, with the support of the Multidisciplinary Team, will arrange the appropriate measures to guarantee their rights.

Concordances:

CNA: Arts. IV, 9th

TITLE II ADOPTION

CHAPTER I GENERAL PROVISIONS

Article 115. Concept. Adoption is a measure of protection for children and adolescents by which, under the supervision of the State, the parent-child relationship is irrevocably established between persons who do not have one by nature. Consequently, the adopted child acquires the status of a child of the adopter and ceases to belong to his or her blood family.

Concordances:

Conv.D.N.: Art. 21º

C.C.: Arts. 238º, 377º

Article 116.- Subsidiarity of adoption by foreigners.- Adoption by foreigners is subsidiary to Adoption by nationals.

In the event that applications from both nationals and foreigners are present, the application from nationals is preferred.

Concordances:

Conv.D.N.: Art. 21º inc. b)

Article 117.- Requirements.- For the Adoption of children or adolescents, it is required that they have been previously declared in a state of abandonment, without prejudice to compliance with the requirements indicated in Article 378 of the Civil Code.

Concordances:

CNA: Arts. 127, 248

C.C.: Arts. 378º, 379º, 381º al 384º, 462º, 2087º

Article 118.- Unforeseen situations.- If unforeseen circumstances occur that prevent the adoption process from being completed, the Adoption Office shall adopt the relevant measures taking into account the Best Interests of the Child and Adolescent.

CHAPTER II PROCESS HOLDER

Article 119.- Process holder.- The Adoption Office of the Child and Adolescent Promotion Management of PROMUDEH is the institution responsible for processing adoption applications for children or adolescents declared abandoned, with the exceptions indicated in Article 128 of this Code. Its powers are non-delegable, except as provided by law.

This Office has an Adoption Council made up of six members: two appointed by PROMUDEH, one of whom will chair it; one by the Ministry of Justice; and one by each professional association of psychologists, lawyers, and social workers.

The members of the Adoption Council will be appointed on an honorary basis, will be valid for two years, and their specific functions will be outlined in the Regulations.

Concordances:

CNA: Arts. 123, 128

Article 120.- National Adoption Registry.- The Adoption Office maintains a registry in which adoptions carried out nationwide are recorded. It must expressly include the adoptive parents' information: name, nationality, address, marital status, sponsoring foreign institution, and the child or adolescent's information.

CHAPTER III ADOPTION PROGRAM

Article 121.- Adoption Program.- An Adoption Program is understood to be the set of activities aimed at providing a permanent home for a child or adolescent. It includes their reception and care, as well as the selection of potential adopters.

The child or adolescent will enter an Adoption Program only with the authorization of the Adoption Office.

Article 122.- Development of Adoption Programs.- Only the Adoption Office of the Child and Adolescent Promotion Management of PROMUDEH or public institutions duly authorized by it develop Adoption Programs.

Article 123.- Procedures.- The Adoption Office and institutions authorized to participate in Adoption Programs are prohibited from granting any reward to parents for the surrender of their children for adoption, nor from exerting any pressure on them to obtain their consent. Failure to comply with this provision, without prejudice to any criminal proceedings that may be appropriate, will result in the dismissal of the offending official or the cancellation of the operating license if the act was committed by an institution authorized to carry out Adoption Programs.

Article 124.- Guarantees for children and adolescents.- While under its care, the institution authorized to develop Adoption Programs shall fully guarantee the rights of children or adolescents eligible for adoption. The placement of children or adolescents in the care of any person or institution without meeting the requirements established in this Law is prohibited.

Article 125.- Supervision of the Adoption Office.- The Adoption Office permanently advises and supervises institutions that develop Adoption Programs.

Concordances:

CNA: Arts. 123, 126

Article 126.- Sanctions.- In case of non-compliance or violation of the provisions established in this Code or its regulations issued by PROMUDEH, the Adoption Office will apply sanctions to the institutions, according to the seriousness of the violation, without prejudice to any civil or criminal liabilities that may arise.

Concordances:
CNA: Art. 119

CHAPTER IV ADMINISTRATIVE ADOPTION PROCEDURE

Article 127.- Prior declaration of the state of abandonment.- The adoption of children or adolescents will only proceed once the state of abandonment has been declared, except in the cases provided for in Article 128 of this Code.

Concordances:
CNA: Arts. 126, 128, 243 inc. and)
CC: Art. 462

CHAPTER V JUDICIAL ADOPTION PROCESS

Article 128.- Exceptions.- As an exception, the following petitioners may initiate legal action for adoption before the specialized Judge, even without a declaration of abandonment of the child or adolescent:

- a) The person who has a marital bond with the father or mother of the child or adolescent to be adopted. In this case, the child or adolescent maintains the filiation ties with the biological father or mother;
- b) Anyone who has a kinship relationship up to the fourth degree of consanguinity or second degree of affinity with the child or adolescent eligible for adoption; and,
- c) The person who has adopted or lived with the child or adolescent to be adopted, for a period of no less than two years.

Concordances:
CNA: Arts. 104th, 127th
C.C.: Art. 236º, 388º, 390º, 402º inc. 2)

CHAPTER VI SPECIAL PROVISIONS FOR INTERNATIONAL ADOPTIONS

Article 129.- International Adoption.- International Adoption is understood to mean adoptions requested by residents abroad. These individuals are not exempt from the procedures and time limits established in this Code.

For this type of adoption to proceed, agreements must exist between the Peruvian State and the States of the foreign adopters or between the institutions authorized by them.

Foreigners residing in Peru for less than two years are governed by the provisions on international adoption. Foreigners residing in Peru for longer periods are subject to the provisions governing adoption for Peruvians.

Concordances:
Conv.D.N.: Art. 21º inc. e)
CNA: Art. 130
CC: Arts. 378th Inc. 8), 2087º

Article 130.- Obligation of Agreements.- Foreigners not residing in Peru who wish to adopt a Peruvian child or adolescent will present their Adoption application, by

through representatives of the centers or institutions authorized by that country to process international adoptions. They will do so before the Adoption Office or public institutions duly authorized by it.

These organizations will operate under agreements signed between the State of Peru and the corresponding States, or between organizations recognized by their State of origin and the Peruvian State.

Concordances:
CNA: Art. 116

CHAPTER VII

POSTADOPTIVE STAGE

Article 131.- Information of national adopters.- Peruvian adopters must report on the comprehensive development of the child or adolescent every six months and for a period of three years to the Adoption Office or to the institutions duly authorized by it.

Article 132.- Information on foreign adopters.- The foreign center or institution that sponsored the adopters shall be responsible for supervising the child's condition and, where appropriate, for legalizing the adoption in the adopters' country. To this end, it shall periodically submit the respective reports to the Adoption Office, in accordance with the signed agreements.

Concordances:
CNA: Art. 119

BOOK FOUR

SPECIALIZED ADMINISTRATION OF JUSTICE FOR CHILDREN AND ADOLESCENTS

TITLE I

JURISDICTION AND COMPETENCE

Article 133. Jurisdiction. The State's jurisdiction in family matters is exercised by the Family Chambers, the Family Courts, and the Magistrates' Courts in the matters determined by law. The Supreme Court shall rule on appeals.

Family Courts assume jurisdiction over civil, guardianship, and infraction matters and are divided into such specializations, provided they exist as Specialized Courts.

Concordances:
CPC: Art. 1
YOUR LOPJ: Arts. 1st, 40th inc. 1), 6), 46th 5)

Article 134.- Family Courts.- The Family Courts have jurisdiction over:

- a) On appeal, the proceedings resolved by the Family Courts;
- b) Of the disputes of jurisdiction brought between Family Courts of the same judicial district and between these and other courts of different specialties within their territorial jurisdiction;
- c) Complaints of law due to denial of the appeal; and,
- d) Other matters indicated by law.

Concordances:
YOUR LOPJ: 40º inc. 1), 6)

Article 135.- Jurisdiction.- The jurisdiction of the specialized judge is determined:

- a) By the address of the parents or guardians;
- b) By the place where the child or adolescent is when parents or guardians are absent;

and,

c) By the place where the offending act was committed or by the domicile of the offending adolescent, his or her parents or guardians.

The law establishes jurisdiction in civil and protective matters. In cases of connection, jurisdiction in criminal matters will be determined in accordance with the rules contained in the Code of Criminal Procedure.

Concordances:

CPC: Arts. 6º, 7º, 8º, 14º, 15º, 16º, 21º, 23º, 24º inc.3), 25º, 26º, 28º, 29º, 30º, 31º 32º, 35º to 46º

CHAPTER I FAMILY COURT JUDGE

Article 136.- Director of the process.- The Judge is the Director of the process; as such, he or she is responsible for the conduct, organization, and development of due process. The Judge issues orders to the Judicial Police for the summons, appearance, or arrest of persons. The services of the Multidisciplinary Team of the forensic office, the Police, and any other institution for the clarification of the facts support the judicial work.

Concordances:

CPC: Arts. I, II, IV to VII, 50o

TWO LOPJ: Arts. 5th, 7th, 184th inc. 1) to 6), 10) to 13)

Article 137.- Powers of the Judge.- The Family Judge is responsible for:

- a) Resolve proceedings in matters of civil, protective and infringement content, in which it intervenes according to its jurisdiction;
- b) Make use of precautionary and coercive measures during the process and in its execution stage, requiring police support if necessary;
- c) Provide socio-educational and protective measures for the child or adolescent, as appropriate;

d) Send to the Registry of Juvenile Offenders of the Superior Court, headquarters of the Court, a copy of the resolution that provides for the socio-educational measure;

e) Apply sanctions for violations of the rights of children and adolescents. The sanction may be up to ten Procedural Reference Units; and

f) Carry out the other functions indicated in this Code and other laws.

The Judge is empowered to set child support, within the same proceedings, in cases of disputes over parental authority, custody, and visitation rights.

Concordances:

CNA: Arts. 159º, 213º, 217º, 228º, 243º

C.P.C.: Arts. 51º, 52, 53º

YOUR LOPJ: Art. 53º

CHAPTER II FAMILY PROSECUTOR

Article 138.- Scope.- The Prosecutor's primary function is to ensure respect for the rights and guarantees of children and adolescents, promoting, ex officio or at the request of a party, the corresponding legal, judicial or extrajudicial actions.

Concordances:

LOMP: Arts. 1º, 3º, 8º, 11º, 95º inc. 1)

Article 139.- Ownership.- The Public Prosecutor's Office is the owner of the action and as such has the burden of proof in the proceedings against the juvenile offender. In this case, it may request the

Police support.

Concordances:

LOMP: Arts. 3º, 9º, 11º, 14º, 95º inc. 1)

Article 140.- Scope of Jurisdiction.- The territorial jurisdiction of the Prosecutor is determined by the jurisdiction of the respective Family Courts and Chambers. His or her functions are governed by the provisions of this Code, its Organic Law, and special laws.

Concordances:

CNA: Art.

CPC: Art. 113

LOMP: Arts. 1º, 3º, 5º, 9º, 11º, 14º, 89º, 95º, 96º

Article 141.- Opinion.- The Opinion, where appropriate, is substantiated after the evidence has been presented and before a judgment is issued. Requests made must be reasoned and submitted in a single instance.

Concordances:

CPC: Art. 114, 116

LOMP: Art. 85º inc. 2), 89º inc. a), 91º inc. 11), 95º inc. 7), 96º inc. 2)

Article 142.- Nullity.- The lack of intervention of the Prosecutor in the cases provided for by law entails nullity, which will be declared ex officio or at the request of a party.

Concordances:

LOMP: Arts. 1st, 14th,

Article 143.- Free access.- The Prosecutor, in the exercise of his or her powers, has free access to any place where a violation of the rights of a child or adolescent is alleged.

Concordances:

LOMP: Arts. 1º, 3º, 5º, 6º, 8º, 9º, 10º, 70º, 75º, 95º inc. 8)

Article 144.- Jurisdiction.- The Prosecutor is responsible for:

a) Grant the Referral as a form of exclusion from the process;

b) Intervene, ex officio and from the initial stage, in all types of police and judicial proceedings to safeguard and protect the rights of children and adolescents.

Their presence before the police is mandatory for statements made in cases of sexual violence against children or adolescents, under penalty of invalidity and functional liability. In the latter case, they will order a clinical and psychological evaluation of the victim by specialized professional personnel and, once this evaluation is complete, they will forward a report, the minutes containing the victim's interview, and the results of the evaluation to the Provincial Criminal Prosecutor on duty.

During the victim's statement, either parent or guardian of the minor may participate, provided they are not the accused. If the parents or guardian of the minor cannot participate, they may appoint a representative;

c) Promote proceedings related to violations attributed to adolescents. In this case, the Prosecutor's Office is responsible for investigating their participation in order to request the necessary socio-educational measures for their rehabilitation;

d) Promote food actions, if applicable, in accordance with the provisions of this Code and the procedural rules on the matter;

e) Promote civil or administrative action for the protection of the diffuse or collective interests of children and adolescents provided for in this Code;

f) Inspect and visit public and private entities, community organizations and grassroots social organizations responsible for providing comprehensive care to children and adolescents and

verify the fulfillment of its purposes;

g) Request the support of the public force, as well as the collaboration of medical, educational, and public and private assistance services, in the exercise of their functions;

h) Establish procedures in which it may:

- Order notifications to request statements for the proper clarification of the facts. If the person notified fails to appear, they may be required to do so through the intervention of the police authority;

- Request from the authorities all kinds of information, expertise and documents that contribute to the clarification of the investigated event;

- Request information and documents from private institutions for the same purpose; and,

i) The other powers indicated by the Law.

j) Act as a conflict conciliator in family matters, to facilitate agreements between the parties and achieve a consensual solution to the conflict, provided that no judicial process has been initiated. He may not facilitate agreements on unavailable or inalienable rights or on matters that have criminal connotations. (7)

(7) Paragraph added by Article 2 of Law No. 28494, published on 04/14/2005.

Concordances:

CNA: Arts. 143º, 180º, 200º, 203º, 206º, 223º, 228º

CPC: Arts. IV, 82º, 561º inc. 6)

LOMP: Arts. 1º, 3º, 9º, 10º, 66º, 94º, 95º, 96º

Article 145. Birth Registration. If during the proceedings it is determined that the child or adolescent lacks a birth certificate, the Specialized Prosecutor is responsible for requesting supplementary registration from the Magistrate of the Peace of the child's domicile, in accordance with the relevant legal provisions. In such cases, the judicial procedure is free of charge.

This registration only proves birth and name. The nature and effects of parentage are governed by the rules of the Civil Code.

Concordances:

CC: Arts. 23º, 70º, 72º, 73º

CPC: Arts. 750º, 825º, 826º

LOMP: Arts. 1st, 3rd

CHAPTER III DEFENSE ATTORNEY

Article 146.- Public Defenders.- The State, through the Ministry of Justice, designates the number of public defenders who will be responsible for providing comprehensive and free legal assistance to children and adolescents who need it. In cases of sexual violence against children and adolescents, free legal assistance to the injured party and their family is mandatory.

Concordances:

CNA: Arts. IV and VI

YOUR LOPJ: Arts. 288º inc. 12), 295º, 298º

Article 147.- Beneficiaries.- The child, adolescent, their parents or guardians, or any person who has an interest in or is aware of the violation of the rights of children and adolescents, may turn to a public defender for advice on the legal actions they should take.

Concordances:

YOUR LOPJ: Arts. 293º, 298º

Article 148.- Absence.- No adolescent who is charged with an infraction shall be prosecuted without legal counsel. The absence of a defense attorney does not postpone any act of the court.

process, and in the case of absence, the Judge must provisionally appoint a substitute from among the public defenders or practicing lawyers.

CHAPTER IV AUXILIARY ORGANS

SECTION I MULTIDISCIPLINARY TEAM

Article 149.- Composition.- The Multidisciplinary Team shall be composed of physicians, psychologists, and social workers. Each Superior Court of Justice shall appoint professionals from each area, who shall perform their duties on a mandatory basis in each court with jurisdiction over children and adolescents.

Article 150.- Powers.- The powers of the Multidisciplinary Team are:

- a) Issue the reports requested by the Judge or the Prosecutor;
- b) Monitor the measures and issue a technical opinion for the purposes of the corresponding evaluation, as well as recommendations for taking appropriate measures; and
- c) Others indicated in this Code.

Concordances:

CNA: Art. 136

YOUR LOPJ: Art. 275º

SECTION II SPECIALIZED POLICE

Article 151.- Definition.- The specialized police force is responsible for assisting and collaborating with the competent State agencies in the education, prevention and protection of children and adolescents.

Article 152.- Organization.- The specialized police are organized at the national level and coordinate their actions with PROMUDEH and with duly authorized institutions.

Concordances:

L.O.M.P: Art. 9º

Article 153.- Requirements.- The personnel of the specialized Police, in addition to the requirements established in their respective regulations, must:

- a) Have training in the disciplines of child and adolescent law and family law;
- b) Have impeccable conduct; and,
- c) Not have any judicial or disciplinary record.

Article 154.- Training.- The National Police coordinates with PROMUDEH and with the family welfare institutions duly authorized by it, the training of personnel who will perform the functions of the specialized police.

Article 155.- Functions.- The functions of the specialized police are:

- a) Ensure compliance with the rules for the protection of children and adolescents issued by State institutions and the execution of judicial decisions;
- b) Develop, in coordination with other entities, educational and recreational activities aimed at achieving the comprehensive training of children and adolescents;
- c) Control and prevent the entry and permanence of children and adolescents in public or private places that threaten their physical or moral integrity;

- d) Prevent the possession or commercialization of writings, audiovisual materials, images, pornographic material and other publications that may affect the education of children or adolescents;
- e) Monitor the movement of children or adolescents within and outside the country, especially at airports and transport terminals;
- f) Support institutions responsible for monitoring juvenile offenders with education and recreation programs;
- g) When circumstances require it, take charge of the supervision of juvenile offenders in specialized centers;
- h) Other matters that are within its jurisdiction in accordance with this Code, its Organic Law and other regulations.

SECTION III POLICE SUPPORTING JUSTICE

Article 156.- Definition.- The Police supporting justice in matters involving children and adolescents is responsible for issuing notifications by order of the judicial authority and the competent Prosecutor and for collaborating with the measures ordered by the Judge.

Concordances:

CNA: Art. 136

YOUR LOPJ: Art. 281º

Article 157.- Functions.- The functions are:

- a) Investigate cases of non-compliance with family assistance duties;
- b) Carry out, by court order, any investigations requested;
- c) Execute the summons, detention, and arrest orders for adults issued by the Judge and the Family Courts, as well as carry out judicial notifications; and
- d) Collaborate with the Judge in the execution of his resolutions.

Concordances:

YOUR LOPJ: Arts. 282º, 283º

SECTION IV MEDICAL LEGAL SERVICE FOR CHILDREN AND ADOLESCENTS

Article 158.- Definition.- At the Institute of Legal Medicine there is a special and free service for children and adolescents, duly equipped, in a place separate from that of adults.

The professional, technical and auxiliary staff providing care in this service will be properly trained.

Concordances:

CNA: Art. 136

SECTION V REGISTRATION OF THE OFFENDING TEENAGE

Article 159. Definition. Socio-educational measures imposed by the Judge on juvenile offenders shall be confidentially recorded in a special registry maintained by the Superior Court. The following shall be entered in said registry:

- a) The name of the offending adolescent, his/her parents or guardians;
- b) The name of the injured party;
- c) The act of infringement and the date of its commission;
- d) The socio-educational measures imposed, with an indication of the date; and,

e) The name of the Court, Secretary and file number.

Concordances:

C.N.A.: Art. 137º inc. c)

TITLE II PROCEDURAL ACTIVITY

CHAPTER I CIVIL CONTENT SUBJECTS

Article 160.- Proceedings.- The specialized Judge is responsible for the following proceedings:

- a) Suspension, loss or restitution of Parental Authority;
- b) Ownership;
- c) Visitation Regime;
- d) Adoption;
- e) Food; and,
- f) Protection of the diffuse and individual interests that concern children and adolescents.

Concordances:

CNA: Arts. 74th, 130th, 180th

CC: Arts. 422º, 461º, 462º, 463º, 471º, 472º, 502º

TWO LOPJ: Arts. 49º inc. 1), 57º inc. 4)

Article 161.- Single Process.- The specialized Judge, in order to resolve, takes into account the provisions of the Single Process established in Chapter II of Title II of Book Four of this Code and, in a supplementary manner, the rules of the Civil Procedure Code.

Concordances:

CNA: Art. 164

CPC: Arts. 546º inc. 1), 548º, 550º to 572º

Article 162.- Non-contentious proceedings.- The specialized Judge is responsible for resolving the following non-contentious proceedings:

- a) Protection;
- b) Family Council;
- c) License to alienate or obligate its assets;
- d) Authorizations; and,
- e) Others indicated by law.

Article 163.- Other non-contentious proceedings.- Non-contentious proceedings that do not have a special procedure contemplated in this Code are governed by the rules of the Civil Procedure Code.

Concordances:

CPC: Arts. 751st to 762nd

CHAPTER II SINGLE PROCESS

Article 164.- Filing of the Proceedings.- The claim shall be filed in writing and shall contain the requirements and attachments established in Articles 424 and 425 of the Civil Procedure Code. The participation of lawyers is not required for alimony cases. The provisions of Section Four of Book One of the Civil Procedure Code shall be taken into account for filing the claim. (8)

(8) Article modified by Art. 3 of Law No. 28439, published on 12/28/2004.

Concordances:

CPC: Arts. 424th to 474th

YOUR LOPJ: Art. 6º

Article 165.- Inadmissibility or inadmissibility.- Once the claim has been received, the Judge will assess it and may declare it inadmissible or inadmissible in accordance with the provisions of Articles 426 and 427 of the Civil Procedure Code.

Concordances:

CPC: Arts. 424º, 425º, 426º, 427º

Article 166.- Modification and extension of the claim.- The plaintiff may modify and extend his claim before it is notified.

Concordances:

CPC: Art. 428

Article 167.- Late Evidence.- After the claim has been filed, only evidence from a later date, those referring to new facts and those indicated by the other party in its response to the claim may be offered.

Concordances:

C.P.C.: Arts. 189º, 429º

Article 168.- Transfer of the claim.- Once the claim has been admitted, the Judge will consider the evidence offered and will forward it to the defendant, with the knowledge of the Prosecutor, for a peremptory period of five days for the defendant to respond.

Agreement:

CPC: Art. 430

Article 169.- Objections or challenges.- Any objections or challenges raised must be supported by evidence and acted upon during the single hearing.

Concordances:

CPC: Arts. 300th to 304th, 553rd

Article 170.- Hearing.- Once the complaint has been answered or the deadline for answering has elapsed, the Judge shall set a non-postponable date for the hearing. This hearing must be held, under the judge's own responsibility, within ten days of receiving the complaint, with the participation of the Prosecutor.

Concordances:

CPC: Art. 554

T.U.O. L.O.P.J.: Art. 184º inc. 7)

Article 171.- Action.- Once the hearing has begun, objections, exceptions or prior defenses may be raised, which will be absolved by the plaintiff.

The evidence will then be presented. No counterclaim will be admissible. Once this has been completed, if the Judge finds the previous exceptions or defenses unfounded, he or she will declare the proceedings healthy and then call on the parties to resolve the child or adolescent's situation through conciliation.

If there is a conciliation and it does not harm the interests of the child or adolescent, it will be recorded in the minutes. This will have the same effect as a judgment.

If the defendant accepts paternity during the single hearing, the Judge will acknowledge the child. To this end, he or she will send a certified copy of the respective court document to the corresponding Municipality, ordering the registration of the acknowledgment in the child's record.

corresponding, without prejudice to the continuation of the process.

If the defendant does not attend the single hearing, despite having been validly summoned, the Judge must sentence in the same act taking into account the evidence presented. (9)

(9) Article modified by Art. 3 of Law No. 28439, published on 12/28/2004

Concordances:

C.P.C.: Arts. 202º, 300º al 304º, 442º, 446º al 457º, 465º al 470º, 555º, 559º inc. 1)

YOUR LOPJ: Arts. 184º 5)

Article 172.- Continuation of the evidence hearing.- If the presentation of evidence cannot be concluded at the hearing, it will be continued on subsequent days, without exceeding three days, at the same time and without the need for new notification.

Article 173.- Approval resolution.- In the absence of conciliation and, if this occurs, in the opinion of the Judge it would affect the interests of the child or adolescent, the Judge will determine the controversial points and those that will be subject to evidence.

The Judge may reject any evidence he or she considers inadmissible, irrelevant, or useless, and will order any issues arising from this decision to be addressed, resolving them immediately. He or she must also hear the child or adolescent.

Once the evidence has been presented, the parties have five minutes to present their arguments orally at the same hearing.

Once the arguments have been granted, if any, the Judge will forward the case file to the Prosecutor for a ruling within forty-eight hours. Once the case file has been returned, the Judge will issue a judgment ruling on all the disputed points within the same period.

Concordances:

C.P.C.: Arts. 202º al 212º, 471º, 472º, 555º

Article 174.- Execution of evidence ex officio.- The Judge may, in a final decision, at any stage of the proceedings, order ex officio the taking of evidence that he considers necessary, by means of a duly reasoned resolution.

Concordances:

CPC: Arts. II, 194º

YOUR LOPJ: Art. 5º

Article 175.- Technical team, social report, and psychological evaluation.- After the complaint has been answered, the Judge, in order to facilitate a decision, may request the technical team to produce a social report regarding the parties involved and a psychological evaluation if deemed necessary. Those responsible for preparing the social report and psychological evaluation must submit their report within three days, under their own responsibility.

Concordances:

CNA: Art. 149

C.P.C.: Arts. II

Article 176.- Precautionary measures.- Precautionary measures in favor of children and adolescents are governed by the provisions of this Code and Title Four of Section Five of Book One of the Civil Procedure Code.

Concordances:

CPC: Arts. 608th to 687th

Article 177.- Temporary measures.- In a duly reasoned resolution, the Judge shall dictate the necessary measures to protect the rights of the child and adolescent.

The Judge shall adopt the necessary measures to immediately cease acts that cause physical or psychological violence, intimidation, or persecution of the child or adolescent.

In these cases, the judge is even empowered to order a search of the home.

Concordances:
C.P.C.: Arts. II

Article 178.- Appeal.- The Resolution that declares the claim and the sentence inadmissible or inappropriate may be appealed with suspensive effect, within three days of notification.
Decisions made by the Judge during the hearing are appealable, have no suspensive effect, and are considered deferred.

Concordances:
CPC: Arts. 364th to 373rd, 556th
T.U.O. L.O.P.J.: Art. 11º

Article 179.- Appeal processing with suspensive effect.- Once the appeal has been granted, the judicial assistant, under his/her responsibility, will send the file to the Family Court within two days of the appeal being granted and the adhesion, if applicable.

Once the documents have been received, the Court will forward them to the Prosecutor for a ruling within forty-eight hours and will set a date for the hearing of the case within the following five days.

Only exceptionally may the parties allege new facts that occurred after the postulatory hearing. The Court will rule within three days of the hearing of the case.

Concordances:
CNA: Art. 178
CPC: Arts. 373º, 375º, 376º, 377º, 558º, 559º incl. 3)

Article 180.- Protection of individual, diffuse and collective interests.- Actions for the defense of the rights of children and adolescents that are diffuse in nature, whether individual or collective, shall be processed according to the rules established in this Chapter.

Parents, guardians, the Public Prosecutor's Office, the Ombudsman, professional associations, educational centers, municipalities, regional governments, and associations dedicated to protecting these rights may demand action to protect them.

Concordances:
CPC: Arts. IV, 82º

Article 181.- Warnings.- For the due compliance of his resolutions, the Judge may impose the following warnings:

- a) A fine of up to five procedural reference units to the party, authority, official or person;
- b) Search of the premises; and,
- c) Detention for up to twenty-four hours for those who resist its order, without prejudice to any criminal action that may be appropriate.

Concordances:
CPC: Arts. 50º inc. 5), 52º inc. 2) and 3), 53o, 420o to 423o
YOUR LOPJ: Art. 5º

Article 182.- Supplementary Regulation.- All matters related to proceedings in matters of civil content in which children and adolescents are involved, contemplated in this Code, shall be governed supplementarily by the provisions of the Civil Code and the Civil Procedure Code.

CHAPTER III **TEENAGER VIOLATING CRIMINAL LAW**

Section I

Generalities

Article 183.- Definition.- A juvenile offender is considered to be one whose responsibility has been determined as the author or participant in a punishable act classified as a crime or misdemeanor in criminal law.

Concordances:

Conv.D.N.: Art. 40º inc. 3)

C.N.A.: Arts. 137º inc. c), 193º, 194º

CP: Arts. 11th, 23rd to 26th

Article 184.- Measures.- Any child under twelve years of age who violates the criminal law shall be subject to the protective measures provided for in this Code.

Concordances:

CNA: Art. 243

Section II Individual rights

Article 185.- Detention.- No adolescent shall be deprived of his or her liberty except by written and reasoned order of the Judge, except in the case of a flagrant criminal offense, in which case the competent authority may intervene.

Concordances:

CNA: Arts. 5th, 17th

Conv.D.N.: Art. 37º inc. b)

Article 186.- Appeal.- The adolescent may appeal the order that has deprived him of his liberty and exercise the action of Habeas Corpus before the specialized Judge.

Concordances:

Conv.D.N.: Art. 37º inc. d)

CNA: arts IV ,X TUO

LOPJ: Art. 11º

Article 187. Information. The deprivation of liberty of an adolescent and the place where he or she is being held shall be communicated to the Judge, the Prosecutor, and his or her parents or guardians, who shall be informed in writing of the reasons for his or her detention, as well as of his or her rights and the identification of those responsible for his or her detention. Under no circumstances shall he or she be deprived of the right to a defense.

Concordances:

Conv.D.N.: Art. 40º inc. 2) lit. b)

Article 188.- Separation.- Adolescents deprived of their liberty shall remain separated from detained adults.

Concordances:

Conv.D.N.: Art. 37º inc. c)

CNA: Arts. 200th, 211th, 237th

Section III Process guarantees

Article 189.- Principle of Legality.- No adolescent may be prosecuted or sanctioned for an act or omission that at the time of its commission was not previously qualified in the

criminal laws expressly and unequivocally as a punishable offense, nor sanctioned with a socio-educational measure not provided for in this Code.

Concordances:

Conv.D.N.: Art. 40° inc. 2) lit. a)

CP: Art. II

L.O.M.P: Art. 10°

Article 190.- Principle of confidentiality and confidentiality of proceedings.- Data on the acts committed by juvenile offenders under trial are confidential. The juvenile's right to image and identity must be respected at all times. Judicial proceedings against juvenile offenders are confidential. Furthermore, information provided as statistics must not violate the Principle of Confidentiality or the right to privacy.

Concordances:

CNA: Art. 159

Article 191.- Rehabilitation.- The Juvenile Offender Justice System is geared toward rehabilitation and well-being. The measures taken in this regard should be based not only on an examination of the seriousness of the offense, but also on the personal circumstances surrounding it.

Concordances:

Conv.D.N.: Arts. 40° inc. 1), 4)

CP: Arts. IX, 15°, 20° inc. 1), 4), 5), 6) and 7)

Article 192.- Guarantees.- In judicial proceedings against juvenile offenders, the guarantees of the Administration of Justice enshrined in the Political Constitution of Peru, the Convention on the Rights of the Child, this Code, and current laws on the matter shall be respected.

Concordances:

Conv.D.N.: Art. 40° inc. 2) lit. b)

CHAPTER IV PERNICIOUS GANG

Article 193.- Definition.- A group of adolescents over 12 (twelve) years of age and under 18 (eighteen) years of age who gather and act to attack third parties, injure physical integrity or threaten the lives of people, damage public or private property or cause disturbances that disrupt internal order is considered a harmful gang.

Concordances:

C.N.A.: Arts. 137° inc. c), 185°, 196°

Article 194.- Infraction.- Any adolescent who, as part of a pernicious gang, injures the physical integrity of persons, commits rape of minors or damages public or private property, using firearms, knives, flammable material, explosives or blunt objects, or under the influence of alcoholic beverages or drugs, will be subject to the socio-educational measure of confinement of no more than 3 (three) years.

Concordances:

C.N.A.: Arts. 137° inc. c), 185°

Article 195.- Aggravated infraction.- If as a consequence of the actions referred to in the previous article, death is caused or serious injuries are inflicted, the socio-educational measure of internment will be no less than three nor more than six years for the perpetrator.

mediate or co-author of the act.

Article 196.- Measures for ringleaders.- If the adolescent belongs to a pernicious gang as ringleader, leader or boss, the socio-educational measure of confinement of not less than two and not more than four years will be applied.

Concordances:

CNA: Art. 193

Article 197.- Compliance with measures.- Adolescents who reach the age of majority during the fulfillment of the socio-educational measure of internment will be transferred to special environments in a primary penitentiary establishment under the charge of the National Penitentiary Institute to complete the treatment.

Article 198.- Responsibility of parents or guardians.- Parents, guardians, representatives or those who exercise custody of adolescents who are subject to the measures referred to in the previous articles shall be jointly liable for any damages and losses caused.

Article 199.- Benefits.- Any adolescent who is subject to judicial investigation, or who is serving a socio-educational measure of confinement, who provides the Judge with truthful and timely information that leads to or allows the identification and location of leaders of harmful gangs, shall have the right to benefit from a reduction of up to fifty percent of the socio-educational measure that corresponds to him.

CHAPTER V INVESTIGATION AND TRIAL

Article 200.- Detention.- Adolescents may only be detained by court order or apprehended in flagrante delicto, in which case they shall be taken to a special section of the National Police. All proceedings shall be conducted with the participation of the Prosecutor and their defense attorney.

Concordances:

Conv.D.N.: Arts. 37º inc. b), 40º inc. 1), 2)

CNA: Arts. 5, 185

L.O.M.P: Art. 10º

Article 201.- Custody.- The Police may entrust the custody of the adolescent to his parents or guardians when the facts are not serious, his address has been verified and his parents or guardians undertake to bring him before the Prosecutor when notified.

Concordances:

LOMP: Arts. 1st, 3rd, 10th, 11th

Article 202.- Bringing before the Prosecutor.- If violence or serious threats have been used against the injured party in the commission of the offense or the parents have not been found, the Police will bring the adolescent offender before the Prosecutor within twenty-four hours, enclosing the Police Report.

Concordances:

LOMP: Arts. 1st, 3rd, 10th, 11th

Article 203.- Declaration.- The Prosecutor, in the presence of the parents or guardians, if available, and the Defense Attorney, will proceed to take the statement of the offending adolescent, as well as the injured party and witnesses, if applicable.

Concordances:

Conv.D.N.: Arts. 40 inc. 2), lit. b)
C.N.A.: Arts. 144º inc. c), 159º
L.O.M.P: Art. 10º, 94º inc. 1), 2)

Article 204.- Powers of the Prosecutor.- In light of the proceedings indicated, the Prosecutor may:

- a) Request the opening of the process;
- b) Arrange for the Referral; and,
- c) Order the filing, if it considers that the fact does not constitute an infraction.

Concordances:

C.N.A.: Arts. 144º inc. a), 206º, 207º, 227º
L.O.M.P: Art. 94º inc. 2), 95º inc. 1), 3), 10)

Article 205.- Appeal.- The complainant or aggrieved party may appeal to the Superior Prosecutor the Prosecutor's Resolution ordering the Referral or filing, within a period of three days.

If the Senior Prosecutor finds the appeal well-founded, he or she will order the Prosecutor to file the complaint.

There is no appeal against the Resolution of the Senior Prosecutor.

Article 206.- Referral.- The Prosecutor may order Referral when it involves an infraction of the penal law that is not serious and the adolescent and his/her parents or guardians agree to follow orientation programs supervised by PROMUDEH or the institutions authorized by it and, if applicable, will seek compensation for the damage to whoever has been harmed.(9a)

(9a) The Regulations regarding the functions of MIMDES (formerly PROMUDEH) were approved by Art. 1 of DS No. 008-2006-MIMDES, published on 07/28/2006.

Concordances:

Conv.D.N.: Art. 40º inc. 3) lit. b)
CNA: Arts. 144º inc. a), 204º inc. b), 223º to 228º
L.O.M.P: Art. 95º inc. 3)

Article 207.- Complaint.- The Prosecutor's complaint must contain a brief summary of the facts, accompanied by evidence revealing the existence of the violation by the adolescent and the legal grounds. The Prosecutor must also request the necessary measures.

Concordances:

LOMP: Arts. 11th, 94th inc. 2), 95º inc. 1)

Article 208.- Resolution.- The Judge, based on the complaint, shall issue a reasoned resolution declaring the action initiated and ordering the adolescent to be heard in the presence of his or her attorney and the Prosecutor, determining his or her procedural status, which may be: release to his or her parents or guardians or preventive detention. In the latter case, the order shall be communicated to the Superior Court.

Concordances:

T.U.O. L.O.P.J.: Art. 12º
LOMP: Arts. 1st, 9th, 10th, 14th

Article 209.- Preventive confinement.- Preventive confinement, duly justified, may only be ordered when there are:

- a) Sufficient evidence linking the adolescent as the perpetrator or participant in the commission of the offending act;
- b) Reasonable risk that the adolescent will evade the process; and,
- c) Well-founded fear of destruction or obstruction of evidence.

Article 210. Appeal against a preventive detention order. An appeal against a preventive detention order is admissible. This appeal is granted in a single action, and the corresponding record is created. The record must be submitted by the judge within twenty-four hours of the appeal being filed, under his or her own responsibility.

The Court will rule within the same period, without the need for a Prosecutor's Hearing.

Article 211.- Detention.- Preventive detention shall be carried out in the Observation and Diagnostic Center of the Judiciary, where a Multidisciplinary Team will evaluate the adolescent's situation. The State guarantees the safety of adolescent offenders detained in its facilities.

Concordances:

Conv.D.N.: Art. 37º inc. b)

CNA: Art. 177

Article 212.- Diligence.- The resolution declaring the action initiated shall set the date and time for the sole diligence to clarify the facts, which shall be held within thirty days, in the presence of the Prosecutor and the attorney. At the hearing, the aggrieved party's statement shall be taken, the evidence admitted and that arising from the diligence shall be presented, along with the arguments of the attorney for the aggrieved party, the arguments of the defense attorney, and the attorney's self-defense. Tests will be offered up to five business days before the hearing.

Concordances:

LOMP: Arts. 1st, 14th, 94th inc. 4)

Article 213.- Second date.- If the adolescent, after having been duly notified, fails to appear for the hearing without justification, the Judge will set a new date within five days. If the adolescent fails to appear for the second time, the Judge will order the National Police to bring the adolescent in.

Article 214.- Resolution.- Once the diligence has been completed, the Judge shall forward the case file to the Prosecutor for a period of two days for him to issue an opinion setting forth the facts he considers proven at trial, the legal classification, the adolescent's responsibility, and requesting the application of the necessary socio-educational measure for his social reintegration. Once this is issued, the Judge shall issue a sentence within the same period.

Concordances:

L.O.M.P: Arts. 91º inc. 11), 95º inc. 7)

Article 215.- Basis.- When issuing a sentence, the Judge will take into account:

- a) The existence of the damage caused;
- b) The seriousness of the facts;
- c) The degree of responsibility of the adolescent; and,
- d) The report of the Multidisciplinary Team and the social report.

Article 216.- Content.- The sentence will establish:

- a) The exposition of the facts;
- b) The legal grounds that are considered appropriate for the classification of the infringing act;
- c) The socio-educational measure imposed; and,
- d) Civil reparation.

Article 217.- Measures.- The Judge may apply the following socio-educational measures:

- a) Warning;
- b) Provision of services to the community;
- c) Assisted freedom;
- d) Restricted freedom; and,
- e) Admission to a facility for treatment.

Concordances:

CNA: Arts. IV, 227º

Article 218.- Acquittal.- The Judge shall issue an acquittal when:

- a) The adolescent's participation in the offending act is not fully proven; and,
- b) The facts do not constitute a violation of criminal law. If the adolescent is incarcerated, his or her immediate release will be ordered, and he or she will be handed over to his or her parents or guardians, or, failing that, to a defense institution.

Article 219.- Appeal.- The judgment shall be notified to the adolescent, his or her parents or guardians, the lawyer, the aggrieved party and the Prosecutor, who may appeal within three days, unless the adolescent is imposed the socio-educational measure of internment, which shall be read to him or her.

In no case may the appealed judgment be amended to the detriment of the appellant. The aggrieved party may only appeal civil compensation or acquittal.

Once the appeal has been admitted, the Judge will submit the case within twenty-four hours of the appeal being granted.

The appeal does not suspend the execution of the decreed measure.

Article 220.- Forwarding to the Senior Prosecutor.- Within twenty-four hours of receiving the file, it shall be forwarded to the Senior Prosecutor's Office for its incumbent to issue an opinion within forty-eight hours. Once the case files have been returned, a date and time for the hearing of the case shall be set within five days. The judgment shall be issued within the following two days.

Once the hearing date has been notified, any lawyer who wishes to provide information must do so in writing, and the hearing will be deemed accepted upon presentation. Postponement is not permitted. The hearing is reserved.

Article 221.- Term.- The minimum and non-extendable term for the conclusion of the procedure, while the adolescent is in custody, will be fifty days and, as a summoned person, seventy days.

Article 222.- Statute of Limitations.- Legal action expires two years after the offending act is committed. In the case of an offense listed in the Penal Code, it expires six months later. The statute of limitations for socio-educational measures is two years, counted from the date the sentence becomes final.

A contumacious or absent adolescent will be subject to the rules contained in the criminal procedural system.

Concordances:

CP: Art. 80º

CPP: Art. 319º

CHAPTER VI REMISSION OF THE PROCESS

Article 223.- Concept.- Referral consists of the separation of the adolescent offender from the judicial process in order to eliminate the negative effects of said process.

Concordances:

Conv.D.N.: Art. 40º inc. 3) lit. b)

CNA: Art. IX

Article 224.- Acceptance.- Acceptance of the Referral does not imply recognition of the infraction attributed to it nor does it generate any precedents.

Article 225.- Requirements.- When granting the Referral, it must be taken into account that the infraction is not serious, as well as the background of the adolescent and his family environment.

Article 226.- Guidance of the adolescent who obtains the Referral.- The adolescent who is separated from the process by the Referral will be applied the corresponding socio-educational measure, with the exception of internment.

Article 227.- Consent.- The activities carried out by the adolescent as a result of the Referral of the process must have the consent of the adolescent, his or her parents or guardians and must be in accordance with his or her age, development and potential.

Article 228.- Granting of Referral by the Prosecutor, the Judge, and the Chamber.- Before the initiation of judicial proceedings, the Prosecutor may grant Referral as a form of exclusion from the proceedings. Once the proceedings have begun, and at any stage, the Judge or the Chamber may grant Referral, which in this case results in the termination of the proceedings.

Concordances:

C.N.A.: Arts. 134º, 137º inc. a), 144º inc. a), 204º inc. b), 206º, 220º

L.O.M.P: Art. 92º inc. 2), 95º inc. 10)

CHAPTER VII SOCIO-EDUCATIONAL MEASURES

Article 229.- Measures.- Socio-educational measures are aimed at the rehabilitation of the adolescent offender.

Concordances:

Conv.D.N.: Art. 40º inc. 4)

Article 230. Consideration.- When determining the measure, the judge shall take into account the adolescent's ability to comply with it. In no case shall forced labor be used.

Article 231.- Warning.- The Warning consists of the recrimination to the adolescent and his parents or guardians.

Concordances:

C.N.A.: Art. 217º a)

Article 232.- Provision of Community Services.- The provision of community services consists of performing tasks appropriate to the adolescent's aptitude without harming his or her health, schooling, or work, for a maximum period of six months; supervised by technical staff of the Juvenile Center Operations Management of the Judiciary in coordination with local governments. (10)

(10) Article regulated by R. Adm. No. 267-2000-PJ/SE-TP-CME, (Regulations for the provision of community services for adolescent offenders), published on 08/12/2000.

Concordances:

C.N.A.: Art. 217º inc. b)

Article 233.- Assisted Freedom.- Assisted freedom consists of the designation by the Operations Management of Juvenile Centers of the Judiciary of a tutor for the guidance, supervision and promotion of the adolescent and his/her family, who must submit periodic reports. This measure will be applied for a maximum period of eight months.

Concordances:

C.N.A.: Art. 217º inc. c)

Article 234.- Restricted Freedom.- Restricted freedom consists of the adolescent's mandatory daily attendance and participation in the Adolescent Guidance Service, run by the Juvenile Center Operations Management of the Judiciary, in order to adhere to the Restricted Freedom Program, which aims at their guidance, education, and reintegration. It shall apply for a maximum period of twelve months.

Article 235.- Internment.- Internment is a measure that deprives one of one's liberty. It shall be applied as a last resort for the minimum necessary period, which shall not exceed three years.

Concordances:

Conv.D.N.: Art. 37º inc. b)

CNA: Art. 228

Article 236.- Application of Internment.- Internment may only be applied when:

a) It is a willful offence, which is classified in the Penal Code and whose penalty is greater than four years;

b) For repeated commission of other serious offenses; and,

c) For unjustified and repeated non-compliance with the imposed socio-educational measure.

Article 237.- Placement.- Detention shall be carried out in Juvenile Centers exclusively for adolescents. These will be placed according to their age, sex, the severity of the offense, and the preliminary report of the Juvenile Center's Multidisciplinary Team.

Article 238.- Activities.- During hospitalization, including preventive hospitalization, educational activities and periodic evaluations by the Multidisciplinary Team will be mandatory.

Concordances:

C.N.A.: Arts. 150º inc. b), 211º

Article 239.- Exception.- If the adolescent reaches the age of majority during the execution of the measure, the Judge may extend any measure until its expiration. If the Criminal Judge has recused himself because the offender was a minor at the time of the events, the Family Court Judge will assume jurisdiction even if the offender has reached the age of majority. In both cases, the measure will be compulsorily terminated upon reaching the age of twenty-one.

Article 240.- Rights.- During hospitalization, the adolescent has the right to:

a) Dignified treatment;

b) Occupy establishments that meet hygiene requirements and are adequate for their needs;

c) Receive vocational or technical education and training;

d) Carry out recreational activities;

e) Profess their religion;

f) Receive medical attention;

g) Perform paid work that complements the instruction provided;

h) Have contact with your family through visits, twice a week, or by telephone;

i) Communicate confidentially with your lawyer and request an interview with the Prosecutor and the Judge;

j) Have access to information from social media;

k) Receive, upon discharge, the personal documents necessary for his/her development in society;

l) Challenge disciplinary measures adopted by the institution's authorities; and,

m) To be periodically evaluated for mental health, every six months.

These rights do not exclude other rights that may benefit them.

The Multidisciplinary Team, in addition to the functions established in this Law, will report to the Ombudsman for Children and Adolescents any facts that it has become aware of.

violated or infringed the rights of the detained adolescents. If any official is found to be responsible, the administrative sanctions indicated in Article 70 of this Law shall be applied, without prejudice to the application of any criminal sanctions that may arise, if applicable. (11)

(11) Article modified by the Sole Article of Law No. 28491, published on 04/12/2005.

Agreement:

Const. [T.211,§213]: Arts. 4, 7, 16, 139 incs. 6), 14), 20) y 21)

Conv.D.N. [T.169,Pág.39]: Arts. 37 inc. c), 40 inc. 1)

C.N.A. [T.291,§043]: Art. 70

Article 241.- Benefit of semi-release.- Adolescents who have served two-thirds of their confinement period may request semi-release to attend work or school outside the Youth Center, as a preliminary step to their release.

This measure will be applied for a maximum period of twelve months.

CHAPTER VIII

PROTECTION MEASURES FOR CHILDREN WHO COMMIT A VIOLATION OF CRIMINAL LAW

Article 242.- Protection.- A child who commits a criminal offense is entitled to protective measures. The specialized judge may apply any of the following measures:

a) Care in the home itself, for which parents or guardians will be guided in the fulfillment of their obligations, with support and temporary monitoring by Defense Institutions;

b) Participation in an official or community Defense program with educational, health and social care;

c) Incorporation into a foster family or foster placement; and,

d) Comprehensive care in a special protection establishment.

Concordances:

Conv.D.N.: Arts. 20º, 21º

C.N.A.: Arts. IV, 104º, 105º, 183º, 184º, 191º

C.C.: Arts. 235º, 423º

CHAPTER IX

PROTECTION MEASURES FOR CHILDREN AND ADOLESCENTS IN PRESUMED STATE OF ABANDONMENT (12)

(12) Chapter Regulated by Art. 1 of DS No. 011-2005-MIMDES, published on 11/12/2005.

Article 243.- Protection

The Ministry of Women and Social Development may apply any of the following protection measures to children and adolescents who require it:

a) Care in one's own home, for which parents, relatives or guardians will be guided in the fulfillment of their obligations, with support and temporary monitoring by defense institutions;

b) Participation in the Official or Community Defense Program with educational, health and social care;

c) Incorporation into a foster family or foster placement;

d) Comprehensive care in a duly accredited special protection facility; and,

e) Give the child or adolescent up for adoption, following a declaration of abandonment issued by the specialized Judge.(13)

(13) Article modified by Art. 1 of Law No. 28330, published on 08/14/2004.

Article 244.- Obligation to inform

Those responsible for social assistance and/or health establishments, whether public or private, are obliged to inform the competent body of the MIMDES' supervisory investigations.

on children and/or adolescents who are in a presumed state of abandonment within a maximum period of seventy-two (72) hours of becoming aware of the fact. (14)
(14) Article modified by Art. 1 of Law No. 28330, published on 08/14/2004.

Article 245.- Protective investigation

The MIMDES, upon learning, through a police report or a complaint from a party, that a child or adolescent is in any of the cases of abandonment, will open a protective investigation, with the knowledge of the Family Prosecutor, and will provisionally order the relevant protective measures. (15)

(15) Article modified by Art. 1 of Law No. 28330, published on 08/14/2004.

Article 246.- Reports

In the resolution to initiate the protective investigation, the MIMDES will order the following procedures:

- a) Declaration of the child or adolescent, or description of his or her physical characteristics, as well as the taking of palm and foot prints;
- b) Psychosomatic examination to determine age, health status, and psychological development. This examination will be performed by the specialized forensic office, and its results will be communicated within two (2) days; if there is no forensic medicine unit, such examination will be carried out in the Ministry of Health facilities by a medical professional;
- c) Pelmatoscopic examination to establish the identity of the child or adolescent. Once this is known, the birth certificate and a copy of the psychosomatic examination must be attached, and the examination must be issued within two (2) days. If the identity of a child or adolescent is unknown, the examination must be issued within ten (10) calendar days, for which a copy of the psychosomatic examination must be attached to the letter;
- d) Report from the multidisciplinary team or the team acting on its behalf, to establish the factors that have determined the situation of the child or adolescent;
- e) Multidisciplinary technical reports prepared by professionals from the institutions that house the wards; in addition to those that will be sent periodically every three (3) months;
- f) Report from the Missing Persons Division, which will be requested, detailing the circumstances in which the ward was found, in order to indicate whether there is a report of the disappearance or kidnapping of the child or adolescent. The MIMDES will attach to its request a copy of the birth certificate or, failing that, a copy of the approximate age examination or the pelmatoscopic examination. The report will be issued within three (3) days.

(16)

(16) Article modified by Art. 1 of Law No. 28330, published on 08/14/2004.

Article 247.- Proceedings

Once the reports referred to in the preceding article have been issued, the MIMDES will request the National Police to search for and locate the parents or guardians, attaching the RENIEC registration form. If they cannot be found, it will arrange for notification through the official newspaper and another newspaper with wider circulation at the place of the last address of the aforementioned, if known, or, failing that, at the place where the investigation is being conducted. Publication will be made for two (2) days every other day, and it will also arrange for notification by broadcast on the official radio station in the same manner. If the parents or guardians of the child or adolescent cannot be found, once the investigation is concluded, the MIMDES will forward the file of the tutelary investigation to the competent Judge in order for him or her to issue the resolution of the judicial declaration of abandonment. (17)
(17) Article modified by Art. 1 of Law No. 28330, published on 08/14/2004.

CHAPTER X

JUDICIAL DECLARATION OF THE STATE OF ABANDONMENT (18)

(18) Chapter Regulated by Art. 1 of DS No. 011-2005-MIMDES, published on 11/12/2005.

Article 248.- Cases.- The specialized Judge may declare a child or adolescent to be in a state of abandonment when:

- a) Be foundling;
- b) Permanently lacks the persons who, according to the law, are responsible for their personal upbringing or education, or, if applicable, fail to fulfill the corresponding obligations or duties; or lack the moral or mental qualities necessary to ensure proper upbringing;
- c) Be subjected to mistreatment by those who are obliged to protect them or allow others to do so;
- d) He/she is handed over by his/her parents to a public or private social assistance institution and has been unjustifiably neglected for six consecutive months or when the combined duration exceeds this period;
- e) Be left in hospital or other similar institutions with the obvious purpose of abandoning it;
- f) Has been handed over by his or her parents or guardians to public or private institutions to be promoted for adoption;
- g) Be exploited in any way or used in activities contrary to the law or good customs by their parents or guardians, when such activities are carried out in their presence;
- h) Be handed over by his or her parents or guardians to another person, with or without remuneration, for the purpose of being forced to perform work not appropriate for his or her age; and,
- i) Be in complete helplessness.

The lack or shortage of material resources in no case gives rise to the declaration of a state of abandonment.

Concordances:

CNA: Arts. 75º inc. b), e), 244º, 247º

CC: Arts. 235º, 418º, 423º, 462º, 463º

Article 249.- Judicial declaration of the state of abandonment

Once the file is received, the Judge will evaluate within a period of no more than five (5) days whether the steps contemplated in the process have been carried out; otherwise, he will return the file to MIMDES for the lifting of observations.

The Judge, after a favorable evaluation of the file, will forward it to the competent Prosecutor for issuing his or her opinion within a period of no more than five (5) days. The competent Judge, within a period not exceeding fifteen (15) calendar days, after receiving a prosecutor's opinion, will issue a judicial resolution that rules on the state of abandonment of the child or adolescent.

Once the judicial resolution has been declared accepted, and within a period not exceeding five (5) calendar days, all the proceedings will be sent to the MIMDES. (19)

(19) Article modified by Art. 1 of Law No. 28330, published on 08/14/2004.

Article 250.- Appeal.- The resolution declaring a child or adolescent to be in a state of abandonment may be appealed within three days before the higher court.

Article 251.- Complaint

If, as a result of the protective investigation, it is established that the child or adolescent has been the passive subject of a crime, the competent Judge will send the necessary reports to the Criminal Prosecutor so that he may proceed in accordance with his powers. (20)

(20) Article modified by Art. 1 of Law No. 28330, published on 08/14/2004.

Article 252.- Family.- In the application of the protection measures indicated, the strengthening of family and community ties will be prioritized.

Concordances:

Conv.D.N.: Art. 9º

CNA: Arts. 8th, 104, 243 inc. and)

SUPPLEMENTARY PROVISIONS

First.- The Code of Children and Adolescents approved by Decree Law No. 26102 [T.199,§283] and its amendments, Supreme Decree No. 004-99-JUS [T.275,§037] and all legal regulations that oppose this Code. (21)
(21) Provision replaced by the Sole Article of Law 27473 published on 06/06/2001.

Agreement:

Law No. 27473: Sole Article.

Second.- For the purposes of notifications sent from provinces, the table of distance terms will be taken into account, in accordance with the Law. (22)(23)(24)

(22) Provision replaced by Art. 2 of Law No. 28330, published on 08/14/2004.

(23) Extended in its term for 90 additional days, by the Sole Article of Law No. 27676, published on 01/03/2002.

(24) Its validity was established by the Sole Article of Law No. 27432, published on 03/07/2001.

Agreement.

Law No. 27432: Sole Article.

Communicate to the President of the Republic for promulgation.

In Lima, on the twenty-first day of the month of July, two thousand.

MARTHA HILDEBRANDT PEREZ TREVIÑO, President of the Congress of the Republic.

RICARDO MARCENARO FRERS, First Vice President of the Congress of the Republic.

TO THE CONSTITUTIONAL PRESIDENT OF THE REPUBLIC

THEREFORE:

I order it to be published and complied with.

Given at the Government House, in Lima, on the second day of the month of August of the year two thousand.

ALBERTO FUJIMORI FUJIMORI, Constitutional President of the Republic. ALBERTO BUSTAMANTE

BELAUNDE, Minister of Justice. LUISA MARIA CUCULIZA TORRE, Minister for the Promotion of Women and

Human Development.
