

Law 13.431/17 represents Brazil's commitments to international norms, such as article 12 of the Convention on the Rights of the Child, by which the signatory state parties commit to ensure that a child or adolescent is given the opportunity to be heard in any judicial and administrative proceedings affecting him or her, as well as the Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime, as per Resolution 20/2005 of the Economic and Social Council of the United Nations.



The legislation is a result of joint efforts and collective action taken by a series of institutions that advocate for child rights.

The proposition was elaborated and presented by a working group, coordinated by **Childhood Brazil** and the **United Nations Children's Fund (UNICEF)**, with support from the Brazilian Child Rights Institute (INDICA). The working group consisted of representatives from the Justice- and Public Security Systems, the Child Protection System, the Mixed Parliamentarian Front on Child Rights of the Chamber of Deputies, Executive Federal and State organs, and specialists on the issue of Child Rights and Childhood Justice.

Apart from collective and specialized actions of Brazilian child-rights institutions, the new law is also based on recommendations drawing on other international laws as well as the experiences of other countries on safe and protective hearing of boys and girls.



CHILDHOOD

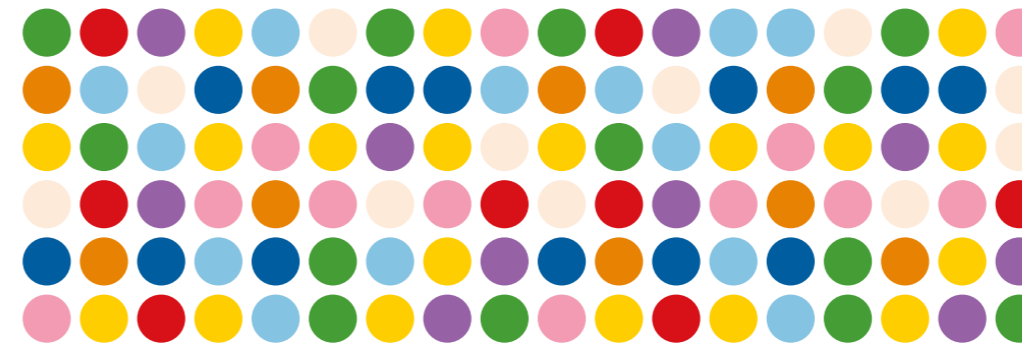
PELA PROTEÇÃO DA INFÂNCIA
FUNDADA POR S. M. RAINHA SILVIA DA SUECIA

www.childhood.org.br

Childhood Brasil is a Brazilian organization that, since 1999, works to influence the child protection agenda of the country. The organization seeks to guarantee that issues of sexual abuse and exploitation of children and adolescents are placed on the agenda of public policy discussions as well as within the private sector, offering information, solutions and strategies for different segments of society. Childhood Brasil is certified as a Civil Society Organization of Public Interest (Oscip) and forms part of the **World Childhood Foundation (Childhood)** – an international institution founded by Queen Silvia of Sweden.

Mission: Promote and defend child rights, with focus on sexual violence, developing and supporting programmes that seek to preserve the child's physical, psychological and moral integrity.

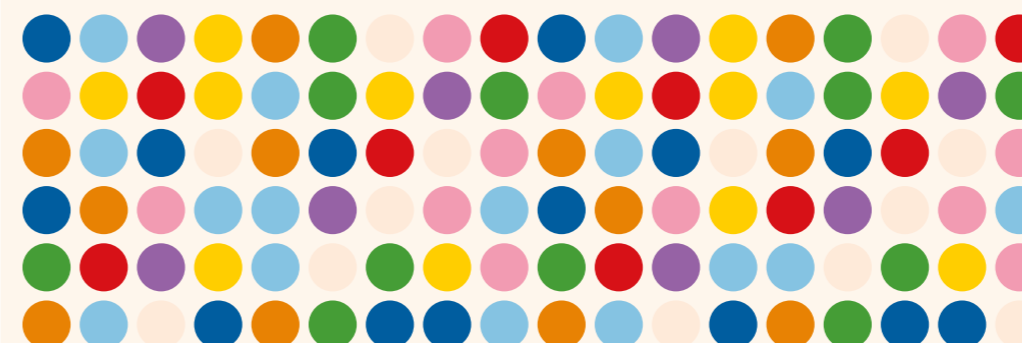
Values: Ethics, transparency and integrity; Citizenship; Social Responsibility; Quality and commitment to results; Replication of knowledge and experience; Commitment with community.



DUO DESIGN

Children and adolescents more protected against violence

Law 13.431/2017 guarantees protective hearing, preventing revictimization



Brazil counts on a law that establishes new parameters for the hearing of children and adolescents who are victims or witnesses of violence, especially sexual violence.

Law **13.431** was sanctioned by the Presidency of the Republic on April 4th, 2017 and **seeks to protect boys and girls in situations of violence, preventing situations of revictimization in the services provided for children and adolescents.**

On some occasions they end up telling their story eight or ten times. Each time they experience the violence they have been exposed to, which, in turn, brings suffering and feelings of insecurity, fear, stress and guilt.

The new law brings guidance on a series of issues related to the protection of children against violence. It especially determines how the hearing of children and adolescents should be done, as to avoid repetition of testimony and thus decrease the occurrence of revictimization.



Ten key contributions of Law 13.431/17 for coping with violence against children and adolescents:

Describes the different forms of violence: physical, psychological and sexual. It should be noted that, depending on the way in which children and adolescents are attended, there may be situations of institutional violence. Such violence, also called secondary violence, can be due to excessive exposure or unnecessary repetitions of testimony.



1



Innovates instruments for protection, establishing specific rights and guarantees, such as the protection against suffering throughout the intervention process in cases of violence.

2

Defines specialized hearing processes as those carried out by the entities of the protection network (health, education and social assistance) and special testimonies as those carried out by the Justice branch. Through such definitions, the law delimits the responsibilities and attributions of each attending organ.



4



Details the procedures of specialized hearing and special testimony, based on the most advanced methodologies available. In doing so, it guarantees both the safety and protection of children and adolescents, as well as transparent and uncontested investigation of the defendant, thus avoiding the risk of having an innocent person sentenced.

5

Determines that the child and / or adolescent remain in a friendly environment in which a specialized professional conducts the testimony, which is recorded and transmitted to a room next door. The judge, prosecutor and / or defender follow the conversation from this room and may raise questions, however not directly to the child and / or adolescent, but to the professional, who in turn asks the question according to the given protocols. The testimony is recorded and may be used by other actors of the Child Protection System, if deemed necessary.



6



Establishes an anticipated production of evidence, as to diminish the number of times a boy or girl need to leave their testimony on any given occurrence. This is obligatory whenever a child is seven years old or younger as well as in all cases of sexual violence. In other situations this procedure is recommended, however not mandatory.

7

Establishes guidelines for integrated policies for assistance of children and adolescents, which may be required judicially, as a means of guaranteeing rights. It is recommended that this integration be made through the implementation of Integrated Service Centers, which already exist in several countries, but with few instalments so far, in Brazil.



8

Specifies the individual, but complementary, responsibilities of different sectors (i.e. health, social assistance and public security). It also reinforces the important role of oversight of the guardianship councils. In this sense, the law seeks not only to cover the criminal aspects, but also to assess the capacity of families to protect their children and adolescents as well as the role of the State in supporting them.



Urges states to create specialized entities for assistance of children and adolescents who are victims of violence, such as police precincts and criminal courts. Although implementation of specialized criminal courts was one of the recommendations of the United Nations Committee on the Rights of the Child, in 2003, advancement of such implementation has been slow so far.



9

10

Reinforces the status of justice confidentiality in the handling of cases of violence against children and adolescents, establishing sentences of imprisonment from one (1) to four (4) years and a fine for anyone who violates the confidentiality of the special testimony.



Download Law 13.431/17



Or access the link: http://www.planalto.gov.br/ccivil_03/_ato2015-2018/2017/lei/L13431.htm

This Law will come into force on April 5th, 2018. However, Brazilian children and adolescents can be immediately benefited, as long as the Union, the States and the Municipalities put it into practice at once, fulfilling the principle of absolute priority for all girls and boys, as guaranteed in the Brazilian constitution.

Tips for implementation of Law 13.431/17:



1. States and municipalities should coordinate with each other to:

- Create mechanisms for an integrated workflow for the assistance of children and adolescents, victims of violence, always through the model of an Integrated Service Centre.
- Establish technical norms for the specialized hearing of children and adolescents.
- Train professionals of the child protection system on methodologies that prevent revictimization in the services provided for children and adolescents.

2. Public Security System:

- Promote the establishment of specialized police units for the investigation of occurrences or suspected occurrences of violence against children and adolescents.
- Create friendly environments for children and adolescents, with respect for the particular conditions of their individual phases of development.
- Establish standard operational procedures for special testimony of children and adolescents.
- Develop continuous training activities for police agents and technical staff involved in providing services for children and adolescents who are victims of violence.

3. Justice System

- Take legal and budgetary actions to establish specialized courts.
- Establish procedures for special testimony of children and adolescents, with focus on anticipated production of evidence.
- Create friendly environments for children and adolescents, with respect for the particular conditions of their individual phases of development.
- Develop continuous training activities for judicial authorities and technical staff involved in the processes of investigation and judicialization of sexual crimes.