

Comparative Table
Criminal Liability Age in Latin America
Legislation subsequent to the International Convention on the Rights of the Child



Inter-American Children's Institute

Organization of American States

**THE CRIMINAL LIABILITY AGE OF
ADOLESCENTS IN LATIN AMERICA**

A comparative analysis follows on the major laws passed in Latin America subsequently to the adoption of the International Convention on the Rights of the Child, related to the establishment of the criminal liability age of adolescents.

In most Latin American states, the criminal liability system has the following features:

- Individuals under 18 years of age are considered to be criminally non-labile. They are positioned outside the adult criminal system. Bolivia, where criminal liability age is 16 years, is an exception.
- Individuals in the 12-18 year range, who are expressly called adolescents in some legal frameworks, are subject to a special criminal liability system. Nicaragua has established 13 years as the minimum liability age.
- Some states provide for the application of penalties according to age (age groups), like in such specific cases as Nicaragua, Costa Rica and Venezuela, among others.

- Individuals under 12 years of age, who are expressly considered as children in some legal frameworks, as opposed to adolescents, are exempt from any type of liability (civil liability is maintained in some cases) and are only subject to protection measures.
- Freedom deprivation is applied at some ages in certain cases, or due to the perpetration of specific crimes. In most cases, it is considered as the last applicable resource.
- In summary, Latin American legislation coincides in the definition of age limits, as well as in the determination of a special criminal liability system for adolescents between 12 and 18 years of age. Individuals under 18 years of age are considered to be non-liable and no type of criminal liability can be alleged on those under 12 years of age.

<u>State</u>	Legislation	Age	Regulatory Contents
Bolivia	Code for boys, girls and adolescents (Law 2026)	12–16 (article 222)	Individuals under 12 are not criminally liable. They can only be the object of civil liability (article 223). Those older than 16 and younger than 21 will be subject to common law, but under the protection provided for in the provisions of this title (article 225).
Brazil	Child and Adolescent Statutes (Law 8069 of July 1990)	12–18	Individuals under 18 are criminally non-liable (article 104). Those under 12 are exempt of any liability (article 2) and will only be subject to protection measures (article 101).
Colombia	Code of the Minor. Executive Act 2737 of November 1989.	12-18	Individuals under 18 are considered as criminally non-liable (article 165). Those under 12 will be the object of protection measures (article 169). Those under 12 will be subject to protection measures (article 169).
Costa Rica	Law on Juvenile	12–18	Age groups. For

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	Criminal Justice. Law 7576 of March 1996.		<p>the enforcement of this law, a distinction will be established as to proceedings, sanctions and their application, between two groups: from 12 to 15, and from 15 to 18 years of age (article 4).</p> <p>Any action committed by somebody younger than 12, representing an offense or infringement, will be not subject to this law, except for civil liability cases that will be filed before the competent jurisdictional courts.</p> <p>Nevertheless, juvenile criminal courts will refer these cases to the <i>Patronato Nacional de la Infancia</i> (National Child Board), in order to provide for the required care and follow-up (article 6).</p>

<u>State</u>	Legislation	Age	Regulatory Contents
Ecuador	Code of Minors. Law 170-92 of August 1992	12-18	<p>Art. 165. – The Judiciary for Minors should respect the rights of minors and promote their physical and mental welfare.</p> <p>Infringement will be understood to be any action committed by a minor as defined by criminal law. No minor will be declared to be the author or accessory to an offense that is not specifically established in the Criminal Law in force at the time when it was committed.</p> <p>For the purpose of this Law, anybody under 18 years of age is considered to be criminally non-liable, and will be subject to the measures provided for in this Code. The Court of Minors with competence on these matters will be that of the minor’s domicile. In no case a child under 12 years of</p>

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			<p>age can be deprived of freedom. In such cases, the Court for Minors should adopt the most suitable social and educational measure for the minor, for the purpose of fostering his/her development, dignity and responsibility (article 166)</p>

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El Salvador	Law on the Infringing Minor. Executive Act 863 of June 1994.	12-18	<p>Art. 2.- This Law will apply to individuals older than 12 and younger than 18 years of age. Minors between 16 and 18 years of age, alleged or confirmed to be liable, as either authors or accessories, of a criminal offense, will be subject to the measures provided for in this Law. The antisocial behavior of minors between 12 and 16 years of age representing an offense or misdemeanor, will be determined as per the proceeding provided for in this Law. Once there is evidence of actions representing an antisocial behavior, the Judge of Minors will decide whether to apply the minor any of the measures provided for in the Law establishing the Institute for Minor Protection, or any of those</p>

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			<p>provided for in this Law, as long as they are for the benefit of the minor. Minors under 12 years of age showing an antisocial behavior will be neither subject to this special juridical system, nor to common law; they will be free of any responsibility and in their case, immediate notice should be given to the Institute for Minor Protection of El Salvador for the purpose of his/her integral protection.</p>

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Honduras	Code for Children and Adolescents. Executive Act 73 – 96 of May 1996	12–18	Article 180.- Children are not subject to ordinary or common criminal jurisdiction, and can only be attributed the liability provided for in this Code for their illicit actions or omissions. The provisions contained in this Title will only apply to children older than 12 years of age who commit an offense or misdemeanor. Children under 12 years of age do not commit crimes. Whenever they commit an offense of a criminal nature, they will only be provided special protection as required, in an effort to achieve their integral development.
Nicaragua	Code for Children and Adolescents. Law 287 of May 1998	13-18	Art. 95. Special Criminal Justice for Adolescents, as provided for in this Code, will apply to adolescents older than 13 and younger than 18

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			<p>years of age at the time of committing an action identified as a crime or misdemeanor in the Criminal Code or special criminal laws. Adolescents between 15 and 18 years of age, upon evidence of their liability either as authors or accessories to a criminal offense, will be subject to the measures provided for in this Book. The liability of adolescents between 13 and 15 years of age, to whom a crime or misdemeanor has been attributed, will be established through the proceedings provided for in this Book. Upon evidence of the crime or misdemeanor, the competent Judge will decide to apply any of the special protection measures provided for in the Second Book of this Code, or those</p>

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			<p>measures established in this Book with the exception of any measure involving freedom deprivation. Girls and boys younger than 13 years of age, will be not subject to the Special Criminal Justice for Adolescents, and will be exempt of criminal liability, with the safeguard of civil liability that will be filed before the competent jurisdictional courts. Nevertheless, the Judge will refer the case to the corresponding administrative body for the purpose of providing integral protection, as well as for watching over and preserving their rights, liberties and related guarantees. In all cases, the application of any measure involving freedom deprivation is</p>

<u>State</u>	Legislation	Age	Regulatory Contents
			prohibited.

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Peru	Code for Children and Adolescents. Executive Act 26.102 of December 1993.	12-18	Any child younger than 12 years of age who infringes the Criminal Law, will be subject to the protection measures provided for in this Code (article 208).
Venezuela	Organic Law on the Protection of Children and Adolescents. Law 52 66 of April 2000	12-18	<p>Article 528.- Liability of adolescents.</p> <p>Any adolescent committing punishable actions, will respond for them to the extent of his/her guilt, in a way different from adults. The difference consists of the specialized jurisdiction and the sanction to be imposed.</p> <p>Article 531.- According to each individual.</p> <p>The provisions in this Title will be applicable to all individuals between 12 and less than 18 years of age at the time of committing the punishable action, even though they</p>

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			<p>may reach 18 years during the proceedings, or be older at the time of indictment.</p> <p>Article 532.- Children.</p> <p>Whenever a child incurs in a punishable action, he/she will only be subject to protection measures, as provided for in this Law.</p> <p>Article 533.- Age groups.</p> <p>For the purpose of applying and enforcing sanctions, adolescents are divided into two groups: those between 12 and 14 years of age, and those between 14 and 18 years of age.</p>