

PANAMA

International Instrument	Signature	Ratification, Acceptance (A), Approval (AA), Accession (a), Succession (d)	Entry Into Force
UN Convention on the Rights of the Child	26 Jan 1990	12 Dec 1990	
UN Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography	31 Oct 2000	6 Feb 2001	
Protocol to Prevent, Suppress and Punish Trafficking in Persons	13 Dec 2000	18 Aug 2004	
UN Optional Protocol on the Involvement of Children in Armed Conflict	31 Oct 2000	8 Aug 2001	
International Convention for the Protection of All Persons from Enforced Disappearance	25 Sep 2007	24 Jun 2011	
Hague Convention on International Child Abduction		2 Feb 1994	1 May 1994

Child protection legislation in Panama has improved in some vital aspects. The General Adoption Act (Law 61/2008), which establishes safeguards for Panamanian children involved in international adoptions, was enacted in 2008, bringing Panama a step closer to the harmonization of its national law with the Hague Convention on Protection of Children and Cooperation in Respect of Inter-country Adoption. Panama also created the Comprehensive Plan of Action for Early Childhood (*Plan de Atención Integral de la Primera Infancia – PAIPI*) in 2011; established an independent Child Rights Observatory in 2010; created the Advisory Council on Early Childhood in 2009, and the National Secretariat for Children, Adolescents and Family (SENNIAF) in 2009. Law 16 of 2004, which introduced amendments to the Criminal Code with regard to crimes against sexual integrity and freedom, is also a great example of the commitment of Panama to protecting children from exploitation.

Nevertheless, Panama still lags behind in some important legislative reforms aimed at creating comprehensive protection of children in the country. In particular, the Committee on the Rights of the Child recommended in October 2011 that necessary measures be taken to ensure the creation of a comprehensive law to protect children's rights (which has been in process in the Panamanian Congress since 2007) and the enhancement of the current national plans to promote and protect the rights of the child – in line with the CRC; as well as raising the minimum age of marriage for boys and girls.¹

¹ OHCHR - Committee on the Rights of the Child, *Concluding Observations for Panama's Consolidated Third and Fourth Periodic Reports*, prepared for CRC session 58th, October 2011. Available at: <http://www.crin.org/docs/CRC.C.PAN.CO.3-4.doc> (last visited October 5, 2011; on file with the International Centre for Missing & Exploited Children).

Panama is a source, transit, and destination country for men, women, and children subjected to sex trafficking and forced labor.² Panama's weak border control, and its strategic geography, has significantly contributed to it becoming a transit point for irregular migrants from Latin America, East Africa, and Asia, some of whom become victims of human trafficking to the United States.³

Data specifically related to the physical and sexual abuse of children is gathered by the Social Development Ministry (*Ministerio de Desarrollo Social*, MIDES). In 2009, MIDES received 1,781 calls reporting child abuse, 294 reports of abandonment, and 581 reports of neglect.⁴ Unfortunately, there is little quantitative information about the magnitude of the issue of commercial sexual exploitation of children in Panama.⁵

Currently there are no missing children laws in the country. There is no legal basis for the immediate investigation of a missing child case and local interviews with the police pointed to a standard of practice in which officers routinely wait 24 hours before registering a report and launching an investigation. Nevertheless, Article 594 of the Family Code⁶ states that one of the functions of the Police of Minors is to protect the children that are abandoned, missing, dedicated or used for deceptive practices. Despite this mandate, only the criminal repercussions for perpetrators are present in the country's legal framework.⁷

² U.S. TIP Report 2011, *supra* note 25, page 289.

³ *Id.*

⁴ U.S. DOS Human Rights Report 2010 (Panama), *supra* note 34, page 20.

⁵ UNICEF. *Prevention of Commercial Sexual Exploitation of Children and Adolescents: Contributing to a Sustainable Tourism in Central America*, 2005, page 41. Available at: http://www.unicef.org/lac/Prevencion_de_la_ESC_ing.pdf (last visited on October 5, 2011; on file with the International Centre for Missing & Exploited Children).

⁶ Código de la Familia de Panamá, Ley No. 3, Libro 3, Capítulo III, Art. 594, Parte 4 (1994). [Family Code of Panama, Law No. 3 (May 17 1994), Book 3, Article 594, Part 4: Establishes that one of the functions of the Police of Minors is to protect the children that are abandoned, missing, dedicated or used for deceptive practices, that are victims of maltreatment or that are in any situation of social risk listed in this Code. (on file with the International Centre for Missing & Exploited Children).

⁷ Código Penal de Panamá (2007). [Penal Code of Panama.] (on file with the International Centre for Missing & Exploited Children). The following articles may be applied:

- **Art. 147:** Anyone that unlawfully deprives a person of their liberty shall be punished with one to three years imprisonment or the equivalent in daily fines or weekend arrests. If the crime was performed by a public servant abusing their authority the penalty shall be two to four years.
- **Art. 148:** States that a perpetrator that kidnaps a person to obtain from him or another as the price of freedom, money, goods, information, documents with legal effect, by act or omission, or another benefit for themselves or a third person but not actually achieve the ransomed price, shall be punished with 10-15 years imprisonment. The penalty will be increased by one third when the victim is (among other things) a minor or if the person exploiting the victims trust is a close relative.
- **Art. 201:** As an addition to Art. 200, if the child or adolescent is given away through illegal actions, the punishment will be from 3 – 6 years imprisonment.
- **Art. 202:** The person who sells, offers, gives away, transfers or accepts a child or adolescent as an exchange for remuneration, payment, or reward, will be punished by 5 – 10 years imprisonment. The same punishment will apply to anyone if these actions are executed with the purpose of illegal adoption. If the purpose is related to sexual exploitation, organs extraction, forced work or slavery, the punishment will be increased a third – half the maximum.
- **Art. 203:** Anyone who moves, transfers, or retains a minor with illicit methods such as kidnapping by force or with fraudulent of coerced consent for the giving or receiving of illegal payments or benefits with the ends of obtaining the consent of the parents, the person or the institution in charge of the minor, shall be sentenced to 8 – 10 years imprisonment.
- **Art. 248:** States that anyone who personally or through an intermediary deposits, receives, transfers or converts monies, bonds securities, properties, or other financial resources, providing activities (among others) such as kidnapping and human trafficking shall receive 5-12 years in prison.
- **Art. 146:** It is illegal to abandon a child under 12 years old when the child is under your responsibility and care. Perpetrators of this crime will go into prison for 1 up to 2 years. If the abandonment of the child represents a risk for the security or health of the child, the punishment will be 4 to 6 years imprisonment. If the conditions of the abandonment cause serious harm to the child the penalty will be 6-8 years. If the abandonment causes death the penalty is 8-12 years.

Panama does have rules and regulations aimed at preventing a child from leaving the country without parental authorization. According to the passport control office (*Dirección Nacional de Pasaporte*), children can only obtain a passport when both parents are present and provide the child's birth certificate, as well as both parents' IDs and/or IDs of any adults responsible for the child. If one of the parents is unable to be present at the office, notarized documentation of permission can be enclosed in the application for the passport.⁸ Some anecdotal evidence provided in interviews indicated there is no consistent enforcement of the parental authorization requirement and that the notarized documents granting permission are easily falsified (e.g. purchased through notaries), despite the existence of a criminal statute penalizing such action by three to five years of imprisonment. The same sentence may apply to anyone who knowingly transfers a minor to an unauthorized person who is not their parent.

Unfortunately, no agency in Panama maintains a comprehensive and systematic mechanism for data collection, analysis, and monitoring issues concerning missing children. However, in 2009 Panama did establish an emergency hotline for children (*Tu Línea 147*).⁹ Unfortunately, the hotline does not work 24 hours a day, which limits the accessibility of this service for victims. The country also does not utilize any media-based notification systems nor is there any collaboration between agencies working with missing children issues. Like in several of the preceding countries, Panamanian parents generally seek publicity directly from media outlets.

■ **Art. 212:** Abduction of Minors: the close relative that retains a minor under 12 years old or a disabled person, from his/her parents, tutors, or person responsible of his/her protection, care and upbringing, or the one who retains him/her against the will of the person who has the legal parental rights, will be punished by 6 months - 2 years imprisonment.

⁸ National Government Republic of Panama. Available at: http://www.panamatramita.gob.pa/tramite_req.php?id_tram=29. (last visited on October 5, 2011.)

⁹ Ministerio de Desarrollo Social, MIDES. [Ministry of Social Development]. Available at: http://www.mides.gob.pa/?page_id=341.