

MINISTRY OF JUSTICE AND HUMAN RIGHTS

LAW 21,057

A LAW TO REGULATE VIDEO-RECORDED INTERVIEWS AND OTHER MEASURES TO SAFEGUARD MINOR CHILDREN, VICTIMS OF SEX CRIMES

Whereas the Honorable National Congress has granted its approval to the following

Bill:

“TITLE I: GENERAL PROVISIONS

Article 1°.- Purpose of the law. This Act regulates the video-recorded investigative interviews and in-court testimony with the purpose of preventing secondary victimization of children and adolescents who have been victims of the crimes set forth in paragraphs 5 and 6 of Title VII of Book Two, and in Articles 141, paragraphs 4 and 5; 142; 372 bis; 374 bis; 390; 391; 395; 397, number 1; 411 bis; 411 ter; 411 quater; and 433, number 1, of the Criminal Code.

By preventing secondary victimization, the aim is to avoid any negative consequences that children and adolescents may suffer as a result of their interaction, as victims, with the persons or institutions involved in the stages of complaint, investigation and prosecution of the crimes referred to in the previous paragraph.

Likewise, for the purposes of this law, a child is construed to be any person under the age of fourteen years of age and an adolescent to be anyone who has attained the age of fourteen but has not reached the age of majority.

The provisions of this Law shall be implemented with full respect for the rights of children and adolescents set forth in the Convention on the Rights of the Child, and international standards for the protection of child victims and witnesses of crime.

Article 2°.- Specialty. The provisions contained herein shall be applied in preference to those in the Criminal Procedure Code.

Article 3°.- Principles of application. Interactions with children and adolescents in the stages of complaint, investigation and trial shall be subject to the following principles of application:

a) Best interest. As children and adolescents are legal subjects, the persons and institutions called upon to intervene in the stages of complaint, investigation and trial shall endeavor to create the necessary conditions so that at each stage of the process said children and adolescents may fully exercise their rights and constitutional guarantees in keeping with their abilities and level of development.

b) Progressive autonomy. Children and adolescents are subjects with progressive autonomy, so that in the stages of the complaint, investigation and trial they will have the right to be heard and participate in matters that affect them, considering their age and the degree of maturity they exhibit.

c) Voluntary participation. The participation of children and adolescents in the stages of the complaint, investigation and trial shall always be voluntary, and they may not be forced to intervene in them by any person under any circumstances.

The public officials involved in criminal proceedings shall ensure compliance with the provisions of this subparagraph and failing to do so shall be deemed a serious breach of their official duties.

d) Prevention of secondary victimization. The prevention of secondary victimization is a guiding principle of the present Law and for the said purpose the persons and institutions involved in the stages of the complaint, investigation and trial shall endeavor to adopt the necessary measures to protect the physical and mental integrity, as well as the privacy of children and adolescents. Likewise, they shall also endeavor to take the necessary measures to ensure that the interactions described in this law are carried out in a manner that is adjusted to the child or adolescent, in an environment appropriate to their individual needs, and that considers their intellectual maturity and the evolution of their abilities, ensuring due respect for their personal dignity.

e) Timely assistance and priority processing. The persons and institutions involved in the complaint and investigation stages shall endeavor to adopt the necessary measures to favor the timely assistance of children and adolescents, as well as the preferential handling of investigative measures.

For their part, the courts with jurisdiction in criminal matters, *sua sponte* or at request of a party shall afford priority scheduling to those hearings in which subjects relating to children and adolescents are addressed. In addition, as needed, the court shall take all necessary measures to expedite the proceedings with a view toward speeding them up and minimizing the period during which the child or adolescent must participate in the criminal proceedings.

Prosecutors shall process the cases addressed herein with priority, in accordance with the general instructions issued by the National Prosecutor of the Public Prosecutor's Office.

f) Safeguarding of dignity. Every child or adolescent is a unique and valuable person and, as such, his or her individual dignity, particular needs, interests and privacy must be respected and protected.

TITLE II

CRIME REPORT, VIDEO-RECORDED INVESTIGATIVE INTERVIEW AND IN-COURT TESTIMONY

1. On the crime report

Article 4°.- On the complaint. The criminal complaint shall be made in accordance with Article 173 of the Criminal Procedure Code.

When the complaint is made by a child or adolescent, it must be received in conditions that guarantee his or her voluntary participation, privacy, security and that allow the presence of other people to be controlled.

The official receiving the complaint shall inquire of the child or adolescent his/her identity information and shall afterwards make an accurate record limited to all verbal and non-verbal expressions the child may voluntarily make with regard to object of the

complaint. Should the complainant not wish to identify him/herself, or do so only partially or with a nickname, no such questions may be repeated.

Under no circumstances may the child or adolescent be exposed to questions that seek to establish event occurrence or the identity of their participants.

If a child or adolescent is accompanied by a trusted adult at the time of the filing of the report, it should be ensured that under no circumstances may his or her voluntary participation be replaced by the adult's intervention. However, this adult may, in turn, disclose his or her knowledge of the facts reported by the child or adolescent. In such cases, the adult may be asked all such questions as are necessary in relation to the facts reported by the child or adolescent, as well as to determine the identity of the child when he or she has not wished to identify him/herself or done so only partially or used a nickname. In such cases, the child shall at all times be prevented from overhearing the adult's story and the questions posed to said adult. Similarly, care shall be taken to ensure that the adult does not influence spontaneously the information given by the child or adolescent.

The complaint must be received immediately and, in cases where it is not made at the offices of the Public Prosecutor, the corresponding prosecutor shall be apprised thereof forthwith and by the most expeditious means possible. In any case, the maximum time limit for this communication is eight hours.

If, on the occasion of an expert's report ordered in the course of a criminal proceeding, the child or adolescent provides information that suggests that an offense of those contained in subsection 1 of Article 1 has been committed, the expert shall, from the moment of disclosure, comply with the provisions of the preceding subsections and shall inform the Public Prosecutor's Office thereof within a maximum period of twenty-four hours. Moreover, should the expert report have been ordered by a court with jurisdiction in family matters, the expert shall communicate to that court, within a maximum period of twenty-four hours, the facts known to him/her, [and] said court shall, based on such communication, order a copy of the case record to be sent to the Public Prosecutor's Office.

Once aware of the crime report, the Public Prosecutor's Office shall ascertain any investigative measures to be carried out and shall request measures to protect and assist the child victim or witness, within a maximum period of twenty-four hours, to be calculated as of receipt of the crime report.

The above notwithstanding, should there be evidence of serious violations of the rights of the child or adolescent, attributable to acts or omissions of the father, mother or both, or the caregiver or other person living with said child or adolescent, the Public Prosecutor's Office shall inform the court with jurisdiction in family matters or the competent magistrate judge immediately and by the most expedient means possible, with a view to requesting the implementation of protective measures.

2. About the video-recorded investigative interview

Article 5°.- Purpose of the video-recorded investigative interview. The purpose of the video-recorded investigative interview is to collect background information to guide the criminal inquiry on the basis of information the child or adolescent provides, regardless of the manner in which it is expressed, concerning the reported events and the participants

therein, thus avoiding the repeated and unjustified exposure of the child or adolescent to instances that seek to establish event occurrence and to establish the existence of the facts. This interview must be recorded in video, as provided for in Article 22.

Article 6°.- Appointment of the interviewer. The video-recorded investigative interview shall be conducted by an interviewer appointed by the prosecutor from among those with currently valid accreditation on the list of interviewers compiled by the Ministry of Justice and Human Rights.

Article 7°.- Scheduling of the video-recorded investigative interview. The video-recorded investigative interview shall be held as soon as possible to the time of the crime report, unless the child or adolescent is not available and in physical and psychological condition to participate, which will be qualified by a professional from the Victim and Witness Care Unit of the respective prosecutor's office.

This evaluation of the professional from the Victim and Witness Care Unit of the Public Prosecutor's Office shall be carried out in the shortest possible time and under conditions that ensure the least physical interaction with the child or adolescent. The professionals in charge of this evaluation may not, under any circumstances, ask the child or adolescent questions that seek to establish event occurrence or the identity of participants therein.

The Public Prosecutor's Office shall adopt such protective measures as may be appropriate, considering the personal circumstances of the child or adolescent, and which seek to secure his or her voluntary participation in the investigation.

Article 8°.- Holding of the video-recorded investigative interview. The video-recorded investigative interview will take place in a room that complies with the provisions of articles 20 and 21 hereto, in which only the interviewer and the child or adolescent shall be present. Notwithstanding the above, in cases where there are difficulties in communicating with the interviewee, the prosecutor may authorize the presence of a translator, interpreter or other appropriate professional or technical specialist.

Article 9°.- Suspension of the video-recorded investigative interview. If any reason arises that prevents the child or adolescent from continuing to participate in this proceeding, the prosecutor, at the suggestion of the interviewer, shall suspend it for the minimum necessary time in accordance with the reason for the suspension.

Article 10.- Further video-recorded investigative interviews. Only when facts or information appear that have not been the subject of the video-recorded investigative interview, that modify what is stated therein and that may substantially affect the course of the investigation, the prosecutor, *sua sponte* or at request of any of the participants, may order a second video-recorded investigative interview to be carried out, which, in any case, shall be subject to the provisions of this law. The investigative file shall reflect the prosecutor's decision and the facts and background information considered in making said determination.

The foregoing paragraph notwithstanding, the decision of the prosecutor to order a second video-recorded investigative interview must be submitted to the Regional Prosecutor for approval.

Should the child or adolescent spontaneously express his or her willingness to make new statements, the prosecutor shall take all necessary steps and measures to conduct a new video-recorded investigative interview in accordance with the provisions of this law and, under no circumstances shall his or her voluntary participation in the process or the exercise of his or her rights be infringed.

In any case, prior to conducting a new video-recorded investigative interview, it shall be ascertained that the child or adolescent is available and in physical and mental condition to participate, toward which end the prosecutor shall provide for a new evaluation by a professional from the Victim and Witness Care Unit of the respective prosecutor's office, under the terms set forth in Article 7.

The new video-recorded investigative interview will be performed by the same interviewer who participated in the original interview and only exceptionally, in the event that this is prevented for duly justified reasons, the prosecutor shall appoint a new interviewer.

Article 11.- Other investigative procedures. Other investigative procedures involving on-site interaction with the child or adolescent will be carried out exceptionally, and only when absolutely necessary. The reasons and grounds on which these measures were based shall be recorded in the investigative file.

In the course of the preparation of any legal medical expert report, the professionals in charge of such proceedings shall limit themselves to exclusively performing an anamnesis, examinations, biological tests and medical examinations, and may not in any case ask the child or adolescent questions relating to criminal participation, the account of the aggression suffered or, in general, seeking to establish event occurrence of the facts under investigation.

Should the prosecutor order or authorize an expert psychological evaluation, he or she must justify such a decision in accordance with general instructions issued by the National Prosecutor of the Public Prosecutor's Office.

Article 12.- Ban on referring to the content of the investigative interview. Witnesses summoned to testify at the oral trial may not allude to the content of the investigative interview given by the child or adolescent. This prohibition shall not apply to experts.

3. On in-court statements

Article 13.- Purpose of in-court testimony. The purpose of this statement shall be for the child or adolescent to testify at trial in a courtroom that complies with articles 20 and 21 of this law, in which only the interviewer and the child or adolescent will be present. Without prejudice to the foregoing, in cases where there are difficulties in communicating with the child or adolescent, the court may authorize the presence of a translator, interpreter or other appropriate professional or technical specialist.

The record of the hearing notwithstanding, this statement shall be video-recorded in an independent manner, as provided for in Article 22.

Article 14.- Voluntary testimony at trial by adolescents. Notwithstanding the provisions of the previous article, adolescents, should they freely and voluntarily manifest their will to do so, may testify at trial without the intervention of an interviewer. The court, prior to authorizing such an application, shall ensure that the adolescent is available and in physical and mental condition to participate therein.

In that case, the teenager will provide his statement in a specially equipped room different to that in which other parties are, with an interconnected communication system that allows that the judge question him on-site, the other parties having to ask their questions through the judge.

Article 15.- Designation of the interviewer who will act as an intermediary for in-court testimony. During the pre-trial hearing, the guarantee judge will appoint the interviewer who will act as an intermediary during the in-court testimony. After listening to the parties, the judge will select the interviewer from among those holding currently valid accreditation from the Ministry of Justice and Human Rights.

The criminal trial court, upon issuing the ruling to which Article 281 of the Criminal Procedure Code refers, may modify the appointment set forth in the preceding paragraph, providing that an official from the Judiciary Branch or a judge from the same court holding currently valid accreditation from the Ministry of Justice and Human Rights shall act as an intermediary for the in-court testimony.

In no case may this interviewer be a deputy prosecutor or prosecutorial assistant nor any official from the *Policía de Investigaciones de Chile* or *Carabineros de Chile* who participated in any investigative proceeding other than the video-recorded investigative interview.

Should the interviewer appointed by the magistrate judge be unable to serve as an intermediary for the in-court testimony, the trial court or magistrate judge shall, where appropriate, *sua sponte* or at the request of any of the participants, appoint a new interviewer.

Article 16.- Advance in-court testimony. The prosecutor, the victim, the criminal complainant and the *curator ad litem* may request the advance in-court testimony of the child and adolescent victims of the crimes cited in Article 1.

The request for advance evidence may be made from the time of the formalization hearing until prior to the opening of the oral trial and shall always be required and held before the judge.

Once the request for advance testimony has been made, the judge will summon the participants to a hearing where the legitimacy of the request will be addressed. If the petition is accepted, the judge shall schedule a hearing to take the evidence in question, notifying all of the participants and the appointed interviewer.

Failure to appear by a validly-summoned defendant shall not preclude the validity of the hearing at which the advance evidence is given.

This evidence will be incorporated into the trial through the media on which the video was recorded pursuant to Article 331 of the Criminal Procedure Code.

The child or adolescent shall not give a new in-court statement, either in advance or at trial, unless he or she freely and spontaneously so requests, or in the event of a

request based on the existence of new information that justifies it and that could substantially affect the outcome of the trial.

In ruling on matters addressed in this article, the judge shall consider the best interests of the child or adolescent and his/her personal circumstances.

Article 17.- In-court testimony development. In-court testimony shall take place under the direction, control and supervision of the presiding judge of the trial court or the guarantee judge, as the case may be, in a room separate from the one in which the hearing is held and that has been specially equipped for this purpose and which meets the requirements of Articles 20 and 21 of this Law, and which has a communications system connected to the room where the hearing or trial is underway.

In-court testimony must be made on a continuous basis on a single day, notwithstanding the pauses that may be necessary for the child to rest, and the best interests of the child or adolescent must always be considered, both in ordering a recess and the resumption of testimony.

The presiding trial court or guarantee judge shall at all times ensure that the interviewer carries out his or her activity in the in-court testimony impartially and neutrally, with particular care being taken to ensure that he or she asks questions in accordance with the following subparagraph.

The participants shall address their questions to the judge, who shall, when appropriate, forward them to the interviewer. The latter, in turn, shall ask the child or adolescent the questions in a language and manner appropriate to their age, maturity and psychological condition.

Article 18.- Reproduction of the video-recorded investigative interview at trial. During the course of the trial, the court may allow the video-recorded investigative interview recording to be played only in the following cases:

a) In the case of video-recorded investigative interviews carried out with children or adolescents who have died or fallen into mental or physical incapacity that makes it impossible for them to appear at trial.

b) In the case of interviews with children or adolescents who, during their appearance at the oral trial, suffers a severely mentally or physically incapability to testify.

c) Where necessary to complement the statement given, or to demonstrate contradictions or inconsistencies within the statements. In this case, in order to authorize the exhibition of the recording, the child must have previously testified at the trial or at an advance evidentiary hearing.

d) When the interviewer who conducted the investigative interview has been summoned to review the methodology used. In this case, the prohibition provided for in Article 12 will apply, and the interviewer's statement and the video will be limited exclusively to informing the court about the methodology and technique used. In addition, the video will be shown during the interviewer's testimony, and in no case may it replace the in-court testimony of the child or adolescent.

The exhibition of the video-recorded investigative interview record may not be discussed, ordered or produced in the presence of the child or adolescent.

In the case of item c) above, all comparisons shall be between the video-recording of the investigative interview and the in-court testimony. The showing of the investigative interview, when authorized, shall take place only once the child or adolescent's participation in the trial has concluded, and under no circumstances shall be authorized to resume his or her participation subsequently thereto.

4. Provisions common to the video-recorded investigative interview and in-court testimony

Article 19.- Regarding the interviewer. The video-recorded investigative interview and in-court testimony may only be conducted or supported, respectively, by those who meet the following requirements:

a) Specialized training in methodology and techniques for video-recorded investigative interviews and in-court testimony for children and adolescents, as provided for in the regulations; and

b) Currently valid accreditation granted by the Ministry of Justice and Human Rights.

Article 20.- Places for the video-recorded investigative interview and in-court testimony. The video-recorded investigative interview and the in-court testimony shall be carried out at rooms specially equipped for this purpose, with tools appropriate to the child's age and stage of development, and which meet the conditions set forth in Article 21.

Public institutions with such facilities shall facilitate their use in accordance with the Law for such purposes. Toward this end, the Public Prosecutor's Office, the Judiciary, *Carabineros de Chile* and *Policía de Investigaciones de Chile* will make national or regional agreements, among themselves and with other public institutions.

Article 21.- Conditions for conducting video-recorded investigative interviews and in-court testimony. Video-recorded investigative interviews and in-court testimony shall be conducted under conditions that:

a) Protect the privacy of interaction with the child or adolescent.

b) Protect the safety of the child or adolescent.

c) Allow participants' presence to be controlled.

d) Are technologically appropriate for video-recording the account told by the child or adolescent and, in the case of in-court statements, for instantaneous reproduction and intercommunication.

Article 22.- On the recording of the video-recorded investigative interview and in-court testimony. The investigative interview and the in-court testimony will be recorded in video through appropriate technological means that allow their full and reliable reproduction.

The regulation referred to in Article 29 shall determine the minimum standards for the production, storage, custody and disposal of video-recorded investigative interviews and in-court testimony.

Article 23.- Confidentiality of the contents of the video-recorded investigative interview and in-court testimony. The content of the video-recorded investigative interview shall be confidential and may only be accessed by the participants, police officers in the performance of their specific duties, family judges within the scope of their purview and experts requiring access to prepare their reports.

Said participants, police officers and experts may obtain a copy of the record of the video-recorded investigative interview, and the prosecutor shall provide it, so long as those elements of the video-recording that would reveal the identity of the child or adolescent have been sufficiently distorted, without affecting comprehension. Likewise, the above-mentioned persons may have access to the full, faithful content of the video-recorded investigative interview, without the aforementioned distortions, only by viewing it at the offices of the Public Prosecutor's Office and must always ensure that the rights of the other participants are respected. The prosecutor may refuse to provide a copy of the video-recorded investigative interview or to show it if the interview has been ordered confidential in accordance with paragraph 3 of Article 182 of the Criminal Procedure Code, without prejudice to the rights of the participants to limit or terminate the confidentiality in accordance with paragraph 4 of the same article.

The in-court testimony and the video-recorded investigative interview the court authorizes to be reproduced pursuant to Article 18, shall only be exhibited and seen by the participants, unless the court, for well-founded reasons, authorizes third parties to enter the hearing room.

The media and people attending the hearing may not photograph or film any part of the in-court testimony or video-recorded investigative interview of the child or adolescent reproduced at trial, nor display such images or records, nor disseminate information that leads to the identification of the person giving testimony or his or her family, nor make textual quotations from his or her statement. The foregoing does not preclude the right of the aforementioned media to report on the proceedings and the alleged perpetrators of the facts under investigation.

The content of the in-court testimony shall be confidential, and no person may obtain a copy of the audiovisual record of the same. Participants may only obtain a true copy of the audio record of the in-court testimony given by the child or adolescent.

Anyone who, other than as permitted by law, photographs, films, transmits, shares, broadcasts, transfers, displays, exhibits, or in any other way copies or reproduces the content of the video-recorded investigative interview or in-court testimony or its recording, whether in whole or in part, or maliciously disseminates images or information identifying the deponent or his/her family, shall be subject to a term of minor incarceration in its medium to maximum degree¹.

TITLE III PROTECTIVE MEASURES FOR CHILDREN AND ADOLESCENTS

Article 24.- General protective measures. The trial court or the magistrate judge, as the case may be, *sua sponte* or at the request of one of the participants, must adopt one or more of the following measures to protect the identity or physical and psychological integrity of children or adolescents:

¹ It's a penalty abstractly considered between 541 days to 5 years.

- a) Delete from the written minutes of the hearings any name, address or any other information that could serve to identify him or her directly or indirectly.
- b) Prohibit participants from providing information or making statements to the communications media regarding the identity of the victim and his or her statement.
- c) Prevent access to the courtroom for specific persons or the general public and order their departure from it.
- d) Prohibit the mass media from entering the courtroom.
- e) Safeguard the privacy of the child or adolescent appearing to testify, and to prevent him or her from having contact with the other persons attending the hearing, especially during entry and exit from the courthouse.

Such measures shall stand for as long as the court so determines and may be renewed as many times as necessary.

Similarly, the Public Prosecutor's Office, *sua sponte* or at the request of one of the participants, shall take all appropriate measures to grant the child or adolescent due protection.

Article 25.- Special protective measures. The magistrate judge may, at the request of the prosecutor, criminal complainant, *curator ad litem* or the victim him or herself, and even before the preliminary hearing is held, order one or more of the following protective measures on his/her behalf should information exist to suggest that the offended party may be in danger:

- a) Prohibition or limitation of the alleged aggressor's presence at the place of study of the child or adolescent, as well as at any other place he/she regularly stays, visits or frequents. If they frequent the same establishment, the judge shall adopt specific measures to safeguard their rights.
- (b) Order the alleged aggressor to leave the home which serves as the offended party's domicile, residence or lodging, when appropriate.
- (c) Entrust the care of the child or adolescent to a person of his or her confidence, and who, in the opinion of the court, fulfills the necessary conditions to safeguard his or her physical and mental integrity.

As appropriate, the court shall immediately send a full copy of the record on which the decision is based to the competent family court, which shall initiate such proceedings as it deems appropriate to safeguard the best interests of the child or adolescent.

Article 26.- Protective measures for the in-court testimony of children and adolescent witnesses of the crimes indicated in Article 1. In the case of the in-court testimony of child witnesses, the court shall decree, as a special measure designed to protect them, that said testimony shall be heard in the manner indicated in the second paragraph of Article 14.

If the witness is an adolescent, the court may, considering his or her personal and psychological circumstances, adopt special protective measures to prevent direct contact with the participants and the public, including the one indicated in the preceding paragraph.

TITLE IV
TRAINING AND ACCREDITATION OF INTERVIEWERS AND INSTITUTIONAL CARE
PROTOCOLS

Article 27.- Provision of interviewers. The *Policía de Investigaciones de Chile*, *Carabineros de Chile* and the Public Prosecutor's Office shall have duly qualified personnel, with currently valid accreditation, in the methodology and techniques for video-recorded investigative interviews and in-court testimony of children and adolescents. For its part, the Judiciary Branch may have judges and officials who, in compliance with the requirements set out in Article 19, may be selected as intermediaries for the in-court testimony pursuant to Article 15.

For the purposes of the preceding paragraph, they must ensure:

- a) That the interviewers are suitable for such functions, considering their knowledge, experience, motivation and, as appropriate, previous official conduct.
- b) That the interviewers are available to perform the functions exclusively or on a priority basis.
- c) That the necessary conditions are created for the continuous training of interviewers, their monitoring and assessment.

Exceptionally, in order to ensure the functioning of the system, if there are not enough accredited interviewers belonging to the *Policía de Investigaciones de Chile*, *Carabineros de Chile* and the Public Prosecutor's Office, the Ministry of the Interior and Public Security must provide the necessary interviewers, who must also comply with the requirements set forth in Article 19.

Article 28.- Training process for interviewers. Interviewers will be trained through an initial training course specializing in methodology and techniques for video-recorded investigative interviews with children or adolescents, and a continuous training program.

Specialized training courses in methodology and investigative interview techniques shall include at least the following:

- a) The contents and activities that ensure that the participants correctly carry out each phase of a video-recorded investigative interview, considering the Chilean criminal context and the particularities of children or adolescents who are victims of the crimes referred to in the first paragraph of Article 1.
- b) Opportunities to practice with expert feedback.
- c) An assessment system that measures the interviewer's competencies. For its part, the continuous training program will include a permanent system of training, monitoring and evaluation of the interviewer's competencies, which will guarantee the maintenance of the knowledge and skills acquired in the initial course of specialized training provided for in the previous paragraph.

To comply with the provisions of this article, the institutions referenced in Article 27 may enter into agreements with institutions, organizations or entities, whether public

or private, domestic or foreign, which provide specialized training courses in video-recorded investigative interviews and which meet the technical standards previously established by the Ministry of Justice and Human Rights in the regulations and, moreover, are in accordance with the institutional care protocols of Article 31.

The agreements must be signed in such a way as to ensure the continuity and quality of the interviewers' training process.

Article 29.- Regulations. Regulations issued by the Ministry of Justice and Rights Humans will establish:

a) The conditions and requirements to be met by the specialized training programs in methodology and techniques for interviewing and in-court testimony by children or adolescents.

b) The form, conditions and requirements for the implementation of the continuous training program, monitoring and assessment of the persons who will perform the video-recorded investigative interviews and in-court testimony.

c) The form, conditions and requirements for the development of the accreditation processes for interviewers and its validity.

d) The technical specifications for the rooms in which the video-recorded investigative interview and in-court testimony of children or adolescents are carried out.

e) The minimum standards for the production, storage, custody and disposal of the records of the video-recorded investigative interview and in-court testimony of children and adolescents.

f) The form, conditions, deadlines and requirements to re-validate the interviewer's accreditation.

g) Any other aspect necessary for the proper implementation of the system of video-recorded investigative interviews and in-court testimony of children or adolescents.

The criteria established by the regulations shall be reviewed and updated at least every three years to bring national practices into line with the evolution of existing international protocols and rules.

Article 30. - Functions of the Ministry of Justice and Human Rights. The Ministry shall be responsible for the following functions:

a) Coordinate the actions of the agencies responsible for complying with this Law to establish guidelines, standards and general criteria. This coordination will take place within the framework of the meetings of the Permanent Commission for Coordination of the Criminal Justice System, established by Law 19,665.

b) Evaluate the functioning of the system to propose the reforms that, within the scope of its remit, it deems necessary. Also, propose to the public bodies involved in its operation the protocols for action and institutional care for children and adolescents.

c) Accredite interviewers, and re-validate said accreditation, for those who meet the criteria established in this law and its regulations. Such accreditation will always be temporary, with a period of validity established in the respective regulations and whose renewal will always be subject to the approval of the requirements set forth therein.

d) Keep and administer an updated list of interviewers with valid accreditation, indicating the institution to which they belong and their domicile, which will always be available to the Judiciary and the Public Prosecutor's Office, through optimal technical means.

Article 31.- Institutional care protocols. The protocols for action and institutional care referred to in Article 30 (b) shall consider at least the following aspects:

a) The standards for referral of crime reports to the corresponding authorities under the parameters indicated in article 4 of this law.

b) Inter-institutional coordination standards that allow children and adolescents, victims or witnesses, to receive support and have access to resources to safeguard their physical and mental health, in a timely and efficient manner.

c) Inter-agency coordination standards that allow for the timely adoption of appropriate protection measures in order to meet the needs of children and adolescents.

d) The inter-institutional coordination standards that allow the system of video-recorded investigative interviews and in-court testimony of children and adolescents to maintain, at all times, adequate territorial coverage at the provincial and regional levels.

e) Measures to ensure that interactions with children and adolescents are carried out under conditions that safeguard their privacy, confidentiality and security.

f) Measures to create the necessary conditions so that, in each interaction with children and adolescents, they can fully exercise their rights in accordance with the development of their capacities.

g) Measures to avoid unnecessary procedures, reduce interviews to a minimum and ensure the expedient and priority processing of proceedings involving interaction with children or adolescents.

h) The technical standards to be met by the specialized training courses for interviewers.

i) The characteristics of the interviews, which will be carried out under standardized procedures, based on empirical experience and the results of the ongoing evaluation of the interviewers' performance, as well as on existing technical knowledge in the field.

TITLE V CHANGES TO RELATED LEGISLATION

Article 32. - The following amendments shall be made to the Criminal Procedure Code:

1. The third paragraph of Article 78 bis is repealed.

2. In paragraph 6 of Title IV of Book One, an article 110 bis shall be added as follows:

"Article 110 bis - Appointment of curator ad litem. In cases where the minor victims of the crimes set forth in paragraphs 5 and 6 of Title VII of Book Two, and in articles 141, paragraphs 4 and 5 142; 372 bis; 374 bis; 390; 391; 395; 397, number 1; 411 bis; 411 ter; 411 quáter, and 433, number 1, all of the Penal Code, have no legal representative or when, for well-founded reasons, it is deemed that their interests are independent or contradictory to those of the person who represents them, the judge may appoint for them

an ad litem curator from any institution dedicated to the defense, promotion or protection of children's rights."

3. Article 191 bis is repealed.

4. in the second indent of Article 280, delete the following text: "or the situation referred to in Article 191 bis".

5. The following text is inserted after the word "intermediate" in article 310: "It is the duty of the latter to prevent questions that may cause suffering or serious affectation of the dignity of the child or adolescent in order to safeguard his or her best interests".

TRANSITIONAL PROVISIONS

Article one - This law shall take force gradually, in accordance with the final paragraph of Article 77 of the Political Constitution of the Republic, according to the schedule indicated below:

First stage: it shall enter into force six months after the publication in the Official Gazette of the Regulations referred to in Article 29 in regions XV, I, II, VII, XI y XII.

Secondo stage: it shall enter into force 18 months after the publication in the Official Gazette of the Regulations referred to in Article 29 in regions III, IV, VIII, IX and XIV.

Third stage: it will enter into force 30 months after publication in the Official Gazette of the Regulations referred to in Article 29 in regions V, VI, X and Metropolitan.

Article two. - Notwithstanding the provisions of the previous article, for the purposes of implementing the system, the training of interviewers to be provided by the *Policía de Investigaciones de Chile*, *Carabineros de Chile* and the Public Prosecutor's Office, and the construction of investigative interview rooms and in-court testimony facilities, as well as to initiation of the accreditation process and for the performance of the other functions assigned by this law to the Ministry of Justice and Human Rights, articles 19 and 20 and Title IV shall enter into force on the date of publication of this law.

Article three - The regulations referred to in Article 29 of this law must be issued within four months of its publication.

Article four: The greater expenditure represented by the application of the present law during the first budgetary year of its entry into force shall be financed from line items 03 Judiciary, 10 Ministry of Justice and Human Rights, and 23 Public Prosecutor's Office, and for any remaining needs the Treasury budget of the Public Sector Budget Law. In subsequent years, resources will be consulted in the budgets of the respective line items.

Article five: Article 191 bis of the Criminal Procedure Code shall be construed to be in force for all proceedings initiated before the entry into force of this law."

Having complied with the provisions of Article 93, paragraph 1, of the Political Constitution of the Republic and inasmuch as I have duly approved and adopted this bill, it is therefore to be enacted and enforced as a Law of the Republic.

Santiago, January 9, 2018. MICHELLE BACHELET JERIA, President of the Republic - Jaime Campos Quiroga, Minister of Justice and Human Rights - Mario Fernández Baeza, Minister of the Interior and Public Security - Nicolás Eyzaguirre Guzmán, Minister of Finance.

Hereby transcribed for informational purposes. Yours sincerely, Nicolas Mena Letelier, Undersecretary of Justice and Human Rights.

Constitutional Court

Bill regulating video-recorded interviews and other measures to protect minors, victims of sexual crimes, corresponding to bulletin No. 9245-07

The undersigned clerk of the Constitutional Court, attests that the Honorable Senate of the Republic forwarded the bill in question, approved by the National Congress, for the preventive control of constitutionality with respect to the bill in question and that this Court, in a decision dated 5 December 2017, in the process Role No. 3,965-17-CPR.

Has ruled:

1. That the following provisions are in conformity with the Political Constitution:
 - a. Articles 4, paragraph 7, 8 and 9; 6; 7, final paragraph; 8; 10; 11, paragraphs 1 and 3; 13; 14; 15; 16; 17; 19; 23, paragraphs 2 and 3; 27; 29; and, 30 a); and,
 - b. Transitory article two.
2. That the provision contained in Article 29 (a) of the bill is unconstitutional and should therefore be deleted from the text under preventive review of constitutionality.
3. That this Constitutional Court does not issue a preventive examination of constitutionality ruling with regards to the provisions contained in articles 9 and 23, fourth paragraph, of the bill examined as they are unrelated to matters of constitutional organic law.

Santiago, December 5, 2017 - Rodrigo Pica Flores, Secretary.