



**Presidency of the Republic  
Presidential Staff  
Secretariat for Legal Affairs**

**LAW # 12,318 OF AUGUST 26th, 2010.**

Determines on parental alienation and amends art. 236 of Law # 8.069 of July 13th, 1990.

[Veto message](#)

**The PRESIDENT OF THE REPUBLIC**

makes it known that the National Congress has passed, and that he enacts the following Law:

Art. 1<sup>st</sup> This law rules on parental alienation.

Art. 2<sup>nd</sup> An act of parental alienation is deemed the interference in a child's or adolescent's psychological education promoted or induced by either parent, by grandparents, or by those who hold the child or adolescent under their authority, guardianship, or surveillance to reject one of the parents, or that hampers building or maintaining bonds with them.

Sole paragraph. Illustrative forms of parental alienation, in addition to those so determined by a judge or ascertained by experts, either directly committed or with the aid of third parties are:

I - to carry out campaigns for disqualifying a parent's behaviour upon exercising his/her parenthood;

II - to obstruct the exercise of parental authority;

III - to obstruct the contact between a child or adolescent with one of their parents;

IV - to obstruct the legal right to exercise family life;

V - to deliberately withhold from a parent relevant personal information on the child or adolescent, including school-related, medical, and address changes;

VI - to file false charges against a parent, their family members, or against grandparents, to obstruct or prevent their presence in the child or adolescent's life;

VII - to change residence to a distant place, without justification, in order to make it difficult for the child or adolescent to live with the other parent, their family member, or grandparents.

Art. 3<sup>rd</sup> The practice of parental alienation infringes a fundamental right the child or adolescent has in having a healthy family life, impairs affection in their relationship with the parent and other family members, and constitutes moral abuse on the child or adolescent, in breach of the duties inherent to parental authority, or to guardianship or custody.

Art. 4<sup>th</sup> Once an act of parental alienation has been so stipulated, either on a motion or by default, at any stage of the proceedings, either on a lawsuit or after an incident, proceedings shall have priority, and the judge shall determine expeditiously, after the Public Prosecutor has been heard, the provisional action required to preserve the child or adolescent's psychological integrity, including to assure their life with the parent, or to facilitate the actual reapproximation between both, if applicable.

Sole paragraph. Both the child or adolescent shall have ensured minimum assisted visits, except in cases where there is imminent risk to the child or adolescent's physic or psychological integrity, so attested by a professional eventually appointed by the judge to assist such visits.

Art. 5<sup>th</sup> Whenever there is evidence of parental alienation practice, brought by a lawsuit or after an incident, the judge, if necessary, shall determine a psychological or bio psychosocial expert assessment.

§ 1<sup>st</sup> The expert report shall be based on a wide psychological or bio psychosocial assessment, as applicable, also including interviews with the parties, review of court records, history of the couple's relationship and separation, chronology of incidents, assessment of the involved parties' personalities, and an examination of the child or adolescent's response to a possible charge against one of their parents.

§ 2<sup>nd</sup> The expert assessment shall be carried out by a qualified professional or multifunctional team, requiring, in any case, proven qualification from either professional or academic records in diagnosing parental alienation acts.

§ 3<sup>rd</sup> The expert or multifunctional team assigned to determine the occurrence of parental alienation will have up to 90 (ninety) days to submit their expert report, such time being extended solely on court order based on properly grounded justification.

Art. 6<sup>th</sup> After having ascertained typical acts of parental alienation or any behaviour obstructing the life of a child or adolescent with either parent, either brought by a lawsuit or after an incident, the judge may, either cumulatively or not, with no prejudice to any civil or criminal liability, widely using the procedural instruments capable of inhibiting or mitigating their effects, according the severity of the case:

- I - declare the occurrence of parental alienation and notify the alienator;
- II - extend the family life schedule in favour of the alienated parent;
- III - apply a fine to the alienator;
- IV - determine psychological or bio psychosocial counselling;
- V - determine change of custody to joint custody, or its reversal;
- VII- determine, by restraining order, the place of residence of the child or adolescent;
- VII - declare the suspension of parental authority.

Sole paragraph. Once an abusive address change, obstruction or prevention of family life, have been ascertained, the judge may also reverse the duty of taking the child or adolescent to or from the parent's home upon their changing the place of family life.

Art. 7<sup>th</sup> Guardianship attribution or modification shall be made in favour of the parent who makes the life of the child or adolescent feasible with the other parent, in cases where shared custody is not viable.

Art. 8<sup>th</sup> Changes in the child or adolescent's domicile is irrelevant for determining competence over lawsuits grounded on the right to family life, except as arising from mutual agreement between parents, or a court ruling.

Art. 9<sup>o</sup> (ANNULLED)

Art. 10. (ANNULLED)

Art. 11. This Law becomes effective as of the day of its publication.

Brasília, August 26th, 2010; 189<sup>th</sup> of Independence, and 122<sup>th</sup> of Republic.

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**This text does not replace the one published in the Federal Official Gazette of August 27th, 2010**