

Legal questionnaire completed by Galindo, Arias & Lopez • March 2024

This document contains responses from the law firm listed above to a questionnaire distributed by NCMEC (questions are in **bold text**). Responses to the questionnaire may be limited to officially enacted legislation; it is possible that actual practice or enforcement of the law varies, and relevant court rulings or case law may also differ from legislative text. Responses have been reformatted and may have been slightly edited for clarity. Furthermore, responses may include commentary, paraphrasing, and unofficial translations of source material (e.g., national legislation) originally produced in other languages. Only official source documents in official languages should be relied upon as legally binding. This document serves to inform further research and does not constitute legal advice from NCMEC or the listed law firm.

1. What laws and regulations contain legal definitions of the following terms or corresponding terms in your local jurisdiction (links to existing U.S. legal definitions are included, where relevant, as background for comparison – please include definitions of any corresponding terms in your country):

a. child or minor (18 U.S.C. 2256(1), <https://www.law.cornell.edu/uscode/text/18/2256>)

- I. Article 1 – Law No. 15 of 6 November 1990 – “That approves the International Treaty (Convention) on the Rights of the Child.”

Definition: “Para los efectos de la presente Convención, se entiende por niño todo ser humano menor de dieciocho años de edad, salvo que, en virtud de la ley que sea aplicable, haya alcanzado antes la mayoría de edad.”

Unofficial English translation: “For the purposes of this Treaty, a child is defined as every human being under the age of eighteen years, unless, under the applicable law, they have reached the age of majority.”

Link: http://gacetas.procuraduria-admon.gob.pa/21667_1990.pdf

Comments: This regulation is an international treaty known as “La Convención de los Derechos del Niño” (The Convention on the Rights of the Child), and it was approved and integrated into Panamanian law through Law No. 15 of 6 November 1990. As a standard practice, international treaties where Panama is a signatory hold a status equivalent to that of the Constitution. Consequently, individuals can invoke and rely on the provisions of this article at the highest judicial levels.

- II. Numeral 3, Article 2 – Law No. 14 of 23 January 2009 – “That establishes the National Secretariat for Childhood, Adolescence, and Family.”

Definition: “Se considera niño o niña toda persona desde su concepción hasta antes de cumplir los catorce años y adolescente, a toda persona que, habiendo cumplido los catorce años de edad, no ha cumplido los dieciocho años.”

Unofficial English translation: “A child is considered to be any person from conception until before turning fourteen years old, and an adolescent is considered to be any person who, having reached the age of fourteen, has not yet turned eighteen.”



Link: <https://www.gacetaoficial.gob.pa/pdfTemp/26211/15846.pdf>

- III. Article 9.3 – Law No. 79 of 22 October 2013 – “That approves the International Treaty (Convention) of Cyber-delinquency.”

Definition: “A los efectos del párrafo 2 anterior, se entenderá por “menor” toda persona menor de 18 años.”

Unofficial English translation: “For the purposes of the preceding paragraph 2, ‘minor’ shall be understood as any person under 18 years of age.”

Link: http://gacetas.procuraduria-admon.gob.pa/27403-A_47469.pdf

Comments: This regulation is an international treaty known as “El Convenio sobre la Ciberdelincuencia” (The International Treaty of Cyber-delinquency), and it was approved and integrated into Panamanian law through Law No. 79 of 22 October 2013. As a standard practice, international treaties where Panama is a signatory hold a status equivalent to that of the Constitution. Consequently, individuals can invoke and rely on the provisions of this article at the highest judicial levels.

Brief Explanation/Analysis:

We note there are some nuances to the definitions of what constitutes a “child” or a “minor”. In the context of Law No. 15 of 6 November 1990, the term “child” is defined as any human being under the age of eighteen (18). As abovementioned, this Law is the implementation of an international treaty titled “La Convención de los Derechos del Niño” (The Convention on the Rights of the Child). Law No. 15 of 6 November 1990 serves as a cornerstone for upholding and safeguarding the rights and well-being of individuals in this age group in general across diverse legal scenarios against minors. In practical terms, the definition outlined in the international treaty officially designates anyone under 18 as a minor or child and sets a minimum threshold for when someone is considered a “minor”.

In addition to the aforementioned Law No. 15 of 6 November 1990, Panamanian regulations also maintain Law No. 14 of 23 January 2009. Law No.14 makes a distinction between a child and an adolescent by stating that someone is considered an adolescent if they are older than 14 years old. While both fall under the umbrella of “minors”, Panama’s legal framework includes specific terms and articles addressing adolescents.

- b. child sexual exploitation (Missing Children’s Assistance Act of 2023, Section 2, (a)(1)(9), <https://www.congress.gov/118/bills/s2051/BILLS-118s2051es.pdf>)**

Article 5.13 – Law No. 285 of 15 February of 2022 – “That creates the system of guarantees and comprehensive protection of the rights of childhood and adolescence and issues other provisions.”

Definition: “Utilización de un niño, niña o adolescente en actividades sexuales eróticas, ya sea de manera presencial o por medios digitales, por las cuales una persona recibe beneficio monetario, pecuniario o de cualquier índole.”



Unofficial English translation: “The exploitation of a child or adolescent in sexual or erotic activities, whether in person or through digital means, with the perpetrator receiving some form of monetary or financial gain.”

Link: https://www.gacetaoficial.gob.pa/pdfTemp/29477_C/90195.pdf

Additional regulations that govern this matter:

- I. Article 1 – Law No. 16 of 31 March 2004 - “That establishes provisions for the prevention and classification of crimes against integrity and sexual freedom, amending and adding articles to the Penal and Judicial Codes.”

Definition: “La presente Ley tiene como objetivo fundamental, proteger a las personas menores de edad de cualquier manifestación de explotación sexual, en todas sus modalidades, mediante el establecimiento de normas preventivas y sancionatorias, de acuerdo con el interés superior de la niñez y adolescencia, su protección integral y los principios rectores de la Constitución Política, el Libro Tercero del Código de la Familia y del Menor y los tratados y convenios internacionales sobre la materia aprobados y ratificados por Panamá.”

Unofficial English translation: “The current law has as its fundamental objective the protection of individuals under the age of majority from any manifestation of sexual exploitation in all its forms. This is achieved through the establishment of preventive and punitive regulations in accordance with the best interests of childhood and adolescence, their comprehensive protection, and the guiding principles of the Political Constitution, Book Three of the Family and Minor Code, and international treaties and agreements on the subject approved and ratified by Panama.”

Link: http://gacetas.procuraduria-admon.gob.pa/25023_34531.pdf

Comment: The law is relevant to combatting child sexual exploitation by explicitly prioritizing the protection of individuals under the age of majority. It employs a comprehensive approach through preventive and punitive measures, aligning with constitutional principles, family codes, and international treaties ratified by Panama.

- II. Article 180 – Panama’s Criminal Code - “That establishes provisions for the prevention and classification of crimes against integrity and sexual freedom, amending and adding articles to the Penal and Judicial Codes.”

Link: <https://www.organojudicial.gob.pa/uploads/blogs.dir/2/2020/12/462/codigo-penal-actualizado-al-mes-de-diciembre-de-2020.pdf>

Comment: This article is crucial in addressing child sexual exploitation through its escalated penalties. It imposes imprisonment and fines on individuals facilitating or organizing such exploitative acts for profit. Notably, the severity of penalty significantly increases when the victim is a minor.

c. sexually explicit conduct (18 U.S.C. 2256(2),



<https://www.law.cornell.edu/uscode/text/18/2256>)

While no defined term of Sexually Explicit Conduct is provided, the following regulations relate to this matter:

- a. Article 9.2.a. – Law No. 79 of 22 October 2013 “That approves the International Treaty (Convention) of Cyber-delinquency.”

Definition: “A los efectos del párrafo 1 anterior, se entenderá por “pornografía infantil” todo material pornográfico que contenga la representación visual de:

a. Un menor adoptando un comportamiento sexualmente explícito;”
Unofficial English translation: “For the purposes of the preceding paragraph 1, “child pornography” shall be understood as any pornographic material containing the visual representation of:

- a. A minor engaging in sexually explicit conduct;”

Link: http://gacetitas.procuraduria-admon.gob.pa/27403-A_47469.pdf

Comment: This regulation explains that the term “child pornography” encompasses any pornographic material that visually depicts a minor engaging in sexually explicit conduct. However, the term “sexually explicit conduct” is not defined.

This regulation is an international treaty known as “El Convenio sobre la Ciberdelincuencia” (The International Treaty of Cyber-delinquency), and it was approved and integrated into Panamanian law through Law No. 79 of 22 October 2013. As a standard practice, international treaties where Panama is a signatory hold a status equivalent to that of the Constitution. Consequently, individuals can invoke and rely on the provisions of this article at the highest judicial levels.

- b. Article 179 – Panama’s Criminal Code

Definition: “Quien corrompa o promueva la corrupción de una persona menor de dieciocho años haciéndola participar o presenciar comportamientos de naturaleza sexual será sancionado con prisión de ocho a diez años. La sanción establecida en el párrafo anterior será de diez a quince años de prisión cuando:

1. La persona tenga catorce años de edad o menos.
2. La víctima esté en una situación de vulnerabilidad que impida o inhiba su voluntad.
3. El hecho sea ejecutado con el concurso de dos o más personas o ante terceros observadores.
4. El hecho sea ejecutado por medio de engaño, violencia, intimidación, abuso de autoridad, abuso de confianza, por precio para la víctima o cualquier otra promesa de gratificación.
5. El autor sea pariente de la víctima por consanguinidad, por afinidad o por adopción, o su tutor o cualquier persona que interviene en el proceso de su educación, formación y desarrollo integral o en su dirección, guarda y cuidado.



6. La víctima resultara contagiada con una enfermedad de transmisión sexual.
7. La víctima resultara embarazada.
8. Se acredite en la víctima la alteración del desarrollo psicosexual.

En el caso del numeral 5, el autor perderá el derecho a la patria potestad, la tutela o la custodia, según corresponda.”

*[**Note: The original response did not include an “Unofficial English translation” for this text as it did for other sections. NCMEC has added an automated translation here:*

“Whoever corrupts or promotes the corruption of a person under eighteen years of age by making them participate in or witness behavior of a sexual nature will be punished with imprisonment of eight to ten years. The penalty established in the previous paragraph will be ten to fifteen years in prison when:

1. *The person is fourteen years of age or younger.*
2. *The victim is in a vulnerable situation that prevents or inhibits her will.*
3. *The act is carried out with the participation of two or more people or before third party observers.*
4. *The act is carried out through deception, violence, intimidation, abuse of authority, abuse of trust, for a price for the victim or any other promise of gratification.*
5. *The perpetrator is a relative of the victim by blood, affinity or adoption, or her guardian or any person involved in the process of education, training and comprehensive development or in the direction, custody and care of her.*
6. *The victim will be infected with a sexually transmitted disease.*
7. *The victim will become pregnant.*
8. *Alteration of psychosexual development is proven in the victim.*

*In the case of paragraph 5, the perpetrator will lose the right to parental authority, guardianship or custody, as appropriate.”**]*

Link: <https://www.organojudicial.gob.pa/uploads/blogs.dir/2/2020/12/462/codigo-penal-actualizado-al-mes-diciembre-de-2020.pdf>

Comment: The provided article is relevant to sexually explicit conduct as it establishes severe legal consequences for individuals involved in corrupting or promoting the corruption of a person under eighteen through sexually explicit behaviors. However, the term “sexually explicit behaviors” is not defined.

d. child sexual abuse (18 U.S.C. 2243(a), <https://www.law.cornell.edu/uscode/text/18/2243>)

Article 5.3 – Law No. 285 of 15 February of 2022 – “That creates the system of guarantees and comprehensive protection of the rights of childhood and adolescence and issues other provisions.”

Definition: “Cuando en una relación de poder o confianza una persona involucra a un niño, niña o adolescente en una actividad de contenido sexual que propicie su victimización, incluye cualquier forma de acoso sexual.”



Unofficial English translation: “When, in a relationship of power or trust, a person involves a child or adolescent in an activity of a sexual nature that promotes their victimization. This includes any form of sexual harassment.”

Link: http://gacetitas.procuraduria-admon.gob.pa/29477-C_57783.pdf

e. child pornography or child sexual abuse material (CSAM) (18 U.S.C. 2256(8), <https://www.law.cornell.edu/uscode/text/18/2256>)

I. Article 9.2 – Law No. 79 of 22 October 2013 – “That approves the International Treaty (Convention) of Cyber-delinquency.”

Definition: “A los efectos del párrafo 1 anterior, se entenderá por “pornografía infantil” todo material pornográfico que contenga la representación visual de:

- a. Un menor adoptando un comportamiento sexualmente explícito;
- b. Una persona que parezca menor adoptando un comportamiento sexualmente explícito;
- c. Imágenes realistas que representen a un menor adoptando un comportamiento sexualmente explícito.”

Unofficial English translation: “For the purposes of the preceding paragraph 1, “child pornography” shall be understood as any pornographic material that contains the visual representation of:

- a. a minor engaging in sexually explicit conduct;
- b. a person who appears to be a minor engaging in sexually explicit conduct; or
- c. realistic images depicting a minor engaging in sexually explicit conduct.”

Link: http://gacetitas.procuraduria-admon.gob.pa/27403-A_47469.pdf

Comments: This regulation is an international treaty known as “El Convenio sobre la Ciberdelincuencia” (The International Treaty of Cyber-delinquency), and it was approved and integrated into Panamanian law through Law No. 79 of 22 October 2013. As a standard practice, international treaties where Panama is a signatory hold a status equivalent to that of the Constitution. Consequently, individuals can invoke and rely on the provisions of this article at the highest judicial levels.

II. Article 5.23 – Law No. 285 of 15 February of 2022 – “That creates the system of guarantees and comprehensive protection of the rights of childhood and adolescence and issues other provisions.”

Definition: “Toda representación, por cualquier medio, incluso de naturaleza virtual o electrónica, de niños, niñas y adolescentes dedicados a actividades sexuales explícitas, reales o simuladas, o a la presentación de las partes genitales de niños, niñas y adolescentes con contenido obsceno.”

Unofficial English translation: “Any representation, by any means, including virtual or



electronic nature, of children and adolescents engaged in explicit sexual activities, whether real or simulated, or the display of the genital parts of children and adolescents with obscene content.”

Link: http://gacetas.procuraduria-admon.gob.pa/29477-C_57783.pdf

Comments: Both regulations in this section can be utilized for the same purpose; however, it's crucial to note that Law No. 79, being an international treaty, holds a higher status, as, in practical terms, international treaties hold a status equivalent to that of the Constitution. Consequently, individuals can invoke and rely on the provisions of Article 9.2 at the highest judicial levels due to its elevated legal standing. On the other hand, while Article 5.23 of Law No. 285 of 15 February 2022 serves a similar purpose, it does not possess the same status as an international treaty.

Notwithstanding the previous, a victim or claimant may rely on the scope of both articles in any given case, whilst giving precedence to the application of the definition stipulated in the international treaty.

III. Articles 184 and 185 – Panama’s Criminal Code

Link: <https://www.organojudicial.gob.pa/uploads/blogs.dir/2/2020/12/462/codigo-penal-actualizado-al-mes-de-diciembre-de-2020.pdf>

Comment: Article 9.2 and Article 5.23 both contain definitions of child pornography. Articles 184 and 185 address the creation, distribution, and possession of explicit material involving minors. Article 184 outlines severe penalties, including imprisonment for fifteen to twenty years, for those involved in the production and dissemination of such content, in connection to minors. Meanwhile, Article 185 specifically targets individuals possessing pornographic material containing images of minors for personal use, imposing a significant penalty of imprisonment for five to ten years.

f. **computer-generated images or videos of child pornography or CSAM (created by artificial intelligence or morphed) (18 U.S.C. 2256(8) & (9), <https://www.law.cornell.edu/uscode/text/18/2256>)**

There is no definition of “Computer-generated images or videos of child pornography or CSAM (created by artificial intelligence or morphed)”, however, the following regulations relate to this matter:

- I. Article 5.23 – Law No. 285 of 15 February of 2022 – “That creates the system of guarantees and comprehensive protection of the rights of childhood and adolescence and issues other provisions.”

Definition: “Toda representación, por cualquier medio, incluso de naturaleza virtual o electrónica, de niños, niñas y adolescentes dedicados a actividades sexuales explícitas, reales o simuladas, o a la presentación de las partes genitales de niños, niñas y adolescentes con contenido obsceno.”

Unofficial English translation: “Any representation, by any means, including virtual or



electronic nature, of children and adolescents engaged in explicit sexual activities, whether real or simulated, or the display of the genital parts of children and adolescents with obscene content.”

Link: http://gacetas.procuraduria-admon.gob.pa/29477-C_57783.pdf

Comment: This legislation does not explicitly mention computer-generated or AI-generated images, however, the definition is relevant to Combatting Child Sexual Abuse Material (CSAM) because it encompasses any representation, including virtual or electronic, of children and adolescents involved in explicit sexual activities or the display of their genital parts with obscene content, which could include computer-generated or AI-generated images.

II. Article 9.2 – Law No. 79 of 22 October 2013 – “That approves the International Treaty (Convention) of Cyber-delinquency.”

Definition: “A los efectos del párrafo 1 anterior, se entenderá por “pornografía infantil” todo material pornográfico que contenga la representación visual de:

- a. Un menor adoptando un comportamiento sexualmente explícito;
- b. Una persona que parezca menor adoptando un comportamiento sexualmente explícito;
- c. Imágenes realistas que representen a un menor adoptando un comportamiento sexualmente explícito.”

Unofficial English translation: “For the purposes of the preceding paragraph 1, “child pornography” shall be understood as any pornographic material that contains the visual representation of:

- a. A minor engaging in sexually explicit conduct;
- b. A person who appears to be a minor engaging in sexually explicit conduct;
- c. Realistic images depicting a minor engaging in sexually explicit conduct.”

Link: http://gacetas.procuraduria-admon.gob.pa/27403-A_47469.pdf

Comment: This legislation does not explicitly mention computer-generated or AI-generated images, however, the definition is relevant to Combatting Child Sexual Abuse Material (CSAM) because it broadly covers various scenarios, including the visual representation of a minor engaging in sexually explicit conduct, a person who appears to be a minor engaging in such conduct, and realistic images depicting a minor in such a context, which could include computer-generated or AI-generated images.

This regulation is an international treaty known as “El Convenio sobre la Ciberdelincuencia” (The International Treaty of Cyber-delinquency), and it was approved and integrated into Panamanian law through Law No. 79 of 22 October 2013. As a standard practice, international treaties where Panama is a signatory hold a status equivalent to that of the Constitution. Consequently, individuals can invoke and rely on the provisions of this article at the highest judicial levels.

g. enticement or grooming (encouraging, persuading, or coercing a child to engage in sexual activity or to create child pornography or CSAM) (18 U.S.C. 2422(b),



<https://www.law.cornell.edu/uscode/text/18/2422>)

While no defined term is provided for enticement or grooming, the following regulations relate to this matter as they relate to the “corruption” or “sexual exploitation” of persons under the age of 18 or under the age of majority:

Articles 179 and 180 – Panama’s Criminal Code

Definition: “179. Quien corrompa o promueva la corrupción de una persona menor de dieciocho años haciéndola participar o presenciar comportamientos de naturaleza sexual será sancionado con prisión de ocho a diez años.

La sanción establecida en el párrafo anterior será de diez a quince años de prisión cuando:

1. La persona tenga catorce años de edad o menos.
2. La víctima esté en una situación de vulnerabilidad que impida o inhiba su voluntad.
3. El hecho sea ejecutado con el concurso de dos o más personas o ante terceros observadores.
4. El hecho sea ejecutado por medio de engaño, violencia, intimidación, abuso de autoridad, abuso de confianza, por precio para la víctima o cualquier otra promesa de gratificación.
5. El autor sea pariente de la víctima por consanguinidad, por afinidad o por adopción, o su tutor o cualquier persona que interviene en el proceso de su educación, formación y desarrollo integral o en su dirección, guarda y cuidado.
6. La víctima resultara contagiada con una enfermedad de transmisión sexual.
7. La víctima resultara embarazada.
8. Se acredite en la víctima la alteración del desarrollo psicosexual.

En el caso del numeral 5, el autor perderá el derecho a la patria potestad, la tutela o la custodia, según corresponda.”

“180. Quien con ánimo de lucro facilite, instigue, reclute u organice de cualquier forma la explotación sexual de personas de uno u otro sexo será sancionado con prisión de siete a nueve años y con doscientos a trescientos días-multa.

La sanción será de diez a doce años cuando concurra alguna de las circunstancias siguientes:

1. La víctima sea una persona menor de edad.
2. La víctima sea una persona con discapacidad.
3. La víctima estuviera en una situación de vulnerabilidad que impida o inhiba su voluntad.
4. El hecho sea ejecutado por medio de engaño, fuerza, fraude, abuso de autoridad, abuso de confianza, violencia o cualquier medio de intimidación o coerción de la víctima.
5. El autor sea pariente de la víctima por consanguinidad, por afinidad o por adopción, o su tutor o cualquier persona que interviene en el proceso de su educación, formación y desarrollo integral o en su dirección, guarda o custodia. En este caso, el autor perderá el derecho a la patria potestad, la tutela o la custodia y quedará inhabilitado en el ejercicio de sus funciones, si estas están vinculadas a la



- situación de desarrollo integral de la víctima, según corresponda.
6. El autor contagie a la víctima con una enfermedad de transmisión sexual.
 7. La víctima resulte embarazada.”

Link: <https://www.organojudicial.gob.pa/uploads/blogs.dir/2/2020/12/462/codigo-penal-actualizado-al-mes-de-diciembre-de-2020.pdf>

h. legal age of consent for sexual activity – are there laws and regulations, if so, what ages are specified?

Article 175 - Panama’s Criminal Code

Definition: Las conductas descritas en el artículo anterior, aun cuando no medie violencia o intimidación, serán sancionadas con prisión de doce a dieciocho años si el hecho se ejecuta:

1. Con persona que tenga menos de catorce años.
2. Con persona privada de razón o de sentido o que padece enfermedad o tenga discapacidad física o mental que le impida consentir o que, por cualquier otra causa, no pueda resistir el acto.
3. Abusando de su posición, con una persona que se encuentre detenida o confiada al autor para que la custodie o conduzca de un lugar a otro.
4. En una persona que por su edad no pueda consentir o resistir el acto.

Unofficial English translation: The behaviors described in the previous article, even when there is no violence or intimidation, will be punished with imprisonment of twelve to eighteen years if the act is executed:

1. With a person who is less than fourteen years of age.
2. With a person deprived of reason or senses or who suffers from illness or has physical or mental disability that prevents them from consenting or that, for any other reason, cannot resist the act.
3. Abusing a position, with a person who is detained or entrusted to the author to keep them or drive them from one place to another.
4. On a person who because of their age cannot consent or resist the act.

Link: <https://www.organojudicial.gob.pa/uploads/blogs.dir/2/2020/12/462/codigo-penal-actualizado-almes-de-diciembre-de-2020.pdf>

Article 176 – Panama’s Criminal Code

Definition: “Quien, valiéndose de una condición de ventaja, logre acceso sexual con persona mayor de catorce años y menor de dieciocho, aunque medie consentimiento, será sancionado con prisión de cuatro a seis años.”

Unofficial English translation: “Anyone, taking advantage of a position of advantage, who achieves sexual access with a person older than fourteen and younger than eighteen, even with consent, shall be punished with imprisonment for two to four years.”

Link: <https://www.organojudicial.gob.pa/uploads/blogs.dir/2/2020/12/462/codigo-penal-actualizado-almes-de-diciembre-de-2020.pdf>



Comment: Pursuant to Article 175, it can be construed that under certain circumstances, the age of consent in Panama is 14 years old. However, pursuant to Article 176, an individual who is between the ages of 14 and 17 years old cannot legally consent to “sexual access” with someone who is in a position of power over them. The emphasis on this provision is on the power dynamic, acknowledging that even if the younger person consents, the existence of a significant power imbalance may render the interaction exploitative.

- i. **Sextortion (extorting money or sexual favors from a child by threatening to share sexually explicit, child pornography or CSAM images of the child) (Missing Children’s Assistance Act of 2023, Section 2, (a)(1)(8), <https://www.congress.gov/118/bills/s2051/BILLS-118s2051es.pdf>)**

While no definition of Sextortion exists in Panama, the following regulations relates to this matter:

Articles 180 and 254 – Panama’s Criminal Code

Definition: “180. Quien con ánimo de lucro facilite, instigue, reclute u organice de cualquier forma la explotación sexual de personas de uno u otro sexo será sancionado con prisión de siete a nueve años y con doscientos a trescientos días-multa.

La sanción será de diez a doce años cuando concurra alguna de las circunstancias siguientes:

1. La víctima sea una persona menor de edad.
2. La víctima sea una persona con discapacidad.
3. La víctima estuviera en una situación de vulnerabilidad que impida o inhiba su voluntad.
4. El hecho sea ejecutado por medio de engaño, fuerza, fraude, abuso de autoridad, abuso de confianza, violencia o cualquier medio de intimidación o coerción de la víctima.
5. El autor sea pariente de la víctima por consanguinidad, por afinidad o por adopción, o su tutor o cualquier persona que interviene en el proceso de su educación, formación y desarrollo integral o en su dirección, guarda o custodia. En este caso, el autor perderá el derecho a la patria potestad, la tutela o la custodia y quedará inhabilitado en el ejercicio de sus funciones, si estas están vinculadas a la situación de desarrollo integral de la víctima, según corresponda.
6. El autor contagie a la víctima con una enfermedad de transmisión sexual.
7. La víctima resulte embarazada.”

“254. Quien, personalmente o por interpuesta persona, reciba, deposite, negocie, transfiera o convierta dineros, títulos, valores, bienes u otros recursos financieros, previendo razonablemente que proceden de actividades relacionadas con el soborno internacional, los delitos contra el Derecho de Autor y Derechos Conexos, contra los Derechos de la Propiedad Industrial o contra la Humanidad, tráfico de drogas, asociación ilícita para cometer delitos relacionados con drogas, estafa calificada, delitos financieros, tráfico ilegal de armas, tráfico de personas, secuestro, extorsión, peculado, homicidio por precio o recompensa, contra el ambiente, corrupción de servidores públicos, enriquecimiento ilícito, actos de terrorismo, financiamiento de terrorismo, pornografía y



corrupción de personas menores de edad, trata y explotación sexual comercial, robo o tráfico internacional de vehículos, con el objeto de ocultar, encubrir o disimular su origen ilícito, o ayude a eludir las consecuencias jurídicas de tales hechos punibles será sancionado con pena de cinco a doce años de prisión.”

*[**Note: The original response did not include an “Unofficial English translation” for this text as it did for other sections. NCMEC has added an automated translation here:*

“180. Whoever for profit facilitates, instigates, recruits or organizes in any way the sexual exploitation of people of either sex will be punished with imprisonment of seven to nine years and a two hundred to three hundred day penalty.

The penalty will be ten to twelve years when any of the following circumstances occur:

- 1. The victim is a minor.*
- 2. The victim is a person with a disability.*
- 3. The victim is in a vulnerable situation that prevents or inhibits her will.*
- 4. The act is carried out through deception, force, fraud, abuse of authority, abuse of trust, violence or any means of intimidation or coercion of the victim.*
- 5. The perpetrator is a relative of the victim by blood, affinity or adoption, or her guardian or any person who intervenes in the process of education, training and integral development or in the direction of her, guardian or custody of she. In this case, the author will lose the right to parental authority, guardianship or custody and will be disqualified from exercising his or her duties, if these are linked to the victim's comprehensive development situation, as appropriate.*
- 6. The perpetrator infects the victim with a sexually transmitted disease.*
- 7. The victim becomes pregnant.”*

*“254. Whoever, personally or through an intermediary, receives, deposits, negotiates, transfers or converts money, titles, securities, goods or other financial resources, reasonably foreseeing that they come from activities related to international bribery, crimes against Copyright and Rights Related, against Industrial Property Rights or against Humanity, drug trafficking, illicit association to commit drug-related crimes, qualified fraud, financial crimes, illegal arms trafficking, human trafficking, kidnapping, extortion, embezzlement, homicide by price or reward, against the environment, corruption of public servants, illicit enrichment, acts of terrorism, financing of terrorism, pornography and corruption of minors, trafficking and commercial sexual exploitation, theft or international trafficking of vehicles, with the aim of hide, conceal or disguise its illicit origin, or help to evade the legal consequences of such punishable acts will be punished with a sentence of five to twelve years in prison.”**]*

Link: <https://www.organojudicial.gob.pa/uploads/blogs.dir/2/2020/12/462/codigo-penal-actualizado-almes-de-diciembre-de-2020.pdf>

Comment: While the term "sextortion" specifically is not mentioned, Article 180 deals with sexual exploitation of minors and Article 254 is broad and covers various illicit activities, including corruption of minors and crimes related to pornography. Both articles address financial activities and profit generated from crimes against minors and pornography.

2. Please explain any legal or regulatory requirement or recommendation for Online Platforms to

undertake any of the following activities on their systems to protect children online from sexual exploitation:

a. review, screen, moderate, or detect content to identify child pornography or CSAM content

There is no specific applicable regulation in Panama regarding this matter; nevertheless, the following regulations are relevant to the subject:

Articles 1-8 – Law No. 22 of 22 June of 2007 – “That adopts measures for the protection of minors regarding the exhibition and production of pornographic material.”

Link: <https://docs.panama.justia.com/federales/leyes/22-de-2007-jun-25-2007.pdf>

Additionally, Article 78 of Law 285 of 15 February 2022 establishes the measures for protection for minors in the virtual space.

ARTÍCULO 78. “Medidas de protección en el espacio virtual. Las medidas de protección en el espacio virtual deben estar dirigidas a:

1. Bloquear o filtrar el acceso por internet a material audiovisual que sea obsceno, pornográfico o pernicioso para los niños, niñas y adolescentes, en computadoras a las que acceden.
2. Evitar el acceso de los niños, niñas y adolescentes a material inapropiado y nocivo en internet. La seguridad de los niños, niñas y adolescentes cuando utilizan el correo electrónico, ingresan a sitios de conversación en internet y otras formas de comunicaciones electrónicas directas.
3. Evitar el acceso no autorizado por parte de niños, niñas y adolescentes en internet, incluyendo la práctica conocida como hacking, piratería informática y otras actividades ilegales.
4. Evitar la revelación, uso y diseminación de información personal de niños, niñas y adolescentes sin autorización.

Se establece la obligación primaria al sistema educativo de adoptar políticas de seguridad en internet. En los supuestos de violación o amenaza de derechos, se procederá a la restitución de los derechos violados o amenazados, por medio de la ejecución de medidas de protección previstas en la presente Ley y demás legislaciones.

La obligación de atender estas medidas se hace extensiva a los centros, establecimientos o cualquier tipo de espacios que cuenten con computadoras o equipos con acceso al espacio virtual para el uso de niños, niñas o adolescentes, independientemente de que estos sean públicos, privados, de índole social o comercial.

Igualmente, es una obligación primordial del Estado hacer las adecuaciones legislativas correspondientes, en especial en materia penal, con el fin de sancionar las conductas delictivas en perjuicio de la niñez y la adolescencia. Las familias y las organizaciones sociales, en su conjunto, tienen el derecho a participar en todas las etapas del ciclo de la política criminológica vinculada con la protección de la niñez.”

*[**Note: The original response did not include an “Unofficial English translation” for this text*



as it did for other sections. NCMEC has added an automated translation here:

ARTICLE 78. "Protection measures in virtual space. Protection measures in virtual space must be aimed at:

- 1. Block or filter Internet access to audiovisual material that is obscene, pornographic or harmful to children and adolescents, on computers to which they access.*
- 2. Prevent children and adolescents from accessing inappropriate and harmful material on the Internet. The safety of children and adolescents when they use email, access chat sites on the Internet and other forms of direct electronic communications.*
- 3. Prevent unauthorized access by children and adolescents on the Internet, including the practice known as hacking, computer piracy and other illegal activities.*
- 4. Avoid the disclosure, use and dissemination of personal information of children and adolescents without authorization.*

The primary obligation is established for the educational system to adopt Internet security policies. In cases of violation or threat of rights, the restitution of the violated or threatened rights will be carried out through the execution of protection measures provided for in this Law and other legislation.

The obligation to comply with these measures is extended to centers, establishments or any type of spaces that have computers or equipment with access to virtual space for the use of children or adolescents, regardless of whether they are public, private, social or commercial nature.

*Likewise, it is a primary obligation of the State to make the corresponding legislative adjustments, especially in criminal matters, in order to punish criminal conduct to the detriment of children and adolescents. Families and social organizations, as a whole, have the right to participate in all stages of the cycle of criminological policy linked to the protection of children.***]*

Link: https://www.gacetaoficial.gob.pa/pdfTemp/29477_C/90195.pdf

Comment: While these regulations do not require an Online Platform to review, screen, moderate, or detect content to identify child pornography or CSAM content, it does require Online Platforms to install computer programs that prevent individuals under the legal age from accessing and viewing websites containing pornographic material. Additionally, they must take the necessary measures to ensure that such computer programs remain up-to-date and permanent.

b. review, screen, moderate, or detect content to identify enticement, grooming, or sextortion of a child

On the basis there is no definition of "Sextortion" in Panama, there is no specific applicable regulation, however, the following regulation is relevant to the subject:

Articles 1-8 – Law No. 22 of 22 June of 2007 – "That adopts measures for the protection of minors regarding the exhibition and production of pornographic material."

Link: <https://docs.panama.justia.com/federales/leyes/22-de-2007-jun-25-2007.pdf>



Additionally, Article 78 of Law 285 of 15 February 2022 establishes the measures for protection for minors in the virtual space.

ARTÍCULO 78. “Medidas de protección en el espacio virtual. Las medidas de protección en el espacio virtual deben estar dirigidas a:

1. Bloquear o filtrar el acceso por internet a material audiovisual que sea obsceno, pornográfico o pernicioso para los niños, niñas y adolescentes, en computadoras a las que acceden.
2. Evitar el acceso de los niños, niñas y adolescentes a material inapropiado y nocivo en internet. La seguridad de los niños, niñas y adolescentes cuando utilizan el correo electrónico, ingresan a sitios de conversación en internet y otras formas de comunicaciones electrónicas directas.
3. Evitar el acceso no autorizado por parte de niños, niñas y adolescentes en internet, incluyendo la práctica conocida como hacking, piratería informática y otras actividades ilegales.
4. Evitar la revelación, uso y diseminación de información personal de niños, niñas y adolescentes sin autorización.

Se establece la obligación primaria al sistema educativo de adoptar políticas de seguridad en internet. En los supuestos de violación o amenaza de derechos, se procederá a la restitución de los derechos violados o amenazados, por medio de la ejecución de medidas de protección previstas en la presente Ley y demás legislaciones.

La obligación de atender estas medidas se hace extensiva a los centros, establecimientos o cualquier tipo de espacios que cuenten con computadoras o equipos con acceso al espacio virtual para el uso de niños, niñas o adolescentes, independientemente de que estos sean públicos, privados, de índole social o comercial.

Igualmente, es una obligación primordial del Estado hacer las adecuaciones legislativas correspondientes, en especial en materia penal, con el fin de sancionar las conductas delictivas en perjuicio de la niñez y la adolescencia. Las familias y las organizaciones sociales, en su conjunto, tienen el derecho a participar en todas las etapas del ciclo de la política criminológica vinculada con la protección de la niñez.”

*[**Note: The original response did not include an “Unofficial English translation” for this text as it did for other sections. NCMEC has added an automated translation here:*

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- 2. Prevent children and adolescents from accessing inappropriate and harmful material on the Internet. The safety of children and adolescents when they use email, access chat sites on the Internet and other forms of direct electronic communications.*
- 3. Prevent unauthorized access by children and adolescents on the Internet, including the practice known as hacking, computer piracy and other illegal activities.*
- 4. Avoid the disclosure, use and dissemination of personal information of children and adolescents without authorization.*



The primary obligation is established for the educational system to adopt Internet security policies. In cases of violation or threat of rights, the restitution of the violated or threatened rights will be carried out through the execution of protection measures provided for in this Law and other legislation.

The obligation to comply with these measures is extended to centers, establishments or any type of spaces that have computers or equipment with access to virtual space for the use of children or adolescents, regardless of whether they are public, private, social or commercial nature.

*Likewise, it is a primary obligation of the State to make the corresponding legislative adjustments, especially in criminal matters, in order to punish criminal conduct to the detriment of children and adolescents. Families and social organizations, as a whole, have the right to participate in all stages of the cycle of criminological policy linked to the protection of children.***]*

Link: https://www.gacetaoficial.gob.pa/pdfTemp/29477_C/90195.pdf

Comment: While these regulations do not require an Online Platform to review, screen, moderate, or detect content to identify content relating to the “sextortion” of children, it does require Online Platforms to install computer programs that prevent individuals under the legal age from accessing and viewing websites containing pornographic material. Additionally, they must take the necessary measures to ensure that such computer programs remain up-to-date and permanent.

c. report child pornography, CSAM, enticement, grooming, or sextortion that they become aware of or are notified about on their systems to a law enforcement or government agency or nongovernmental organization

In Panama, there are no requirements for Online Platforms to report child pornography, CSAM, enticement, grooming, or sextortion that they become aware of or are notified about on their systems to a law enforcement or government or non-governmental organization. However, Article 184 of Panama’s Criminal Code states that anyone who exhibits, publishes, advertises, disseminates, or distributes pornographic material through the internet or any national or international mass communication medium, presenting or virtually representing one or several minors engaging in activities of a sexual nature, whether real or simulated, will face criminal charges and sanctions that range from fifteen to twenty years. This means the person posting child pornography online is criminally liable, however, it is not clear if the Online Platform itself would also be criminally liable for “hosting” such materials.

Article 184 of Panama’s Criminal Code states:

“Quien fabrique, elabore por cualquier medio o produzca material pornográfico o lo ofrezca, comercie, exhiba, publique, difunda o distribuya a través de Internet o de cualquier medio masivo de comunicación o información nacional o internacional, presentando o representando virtualmente a una o varias personas menores de edad en actividades de carácter sexual, sean reales o simuladas, será sancionado con prisión de diez a quince años. La pena será de quince a veinte años si la víctima es una persona



menor de catorce años, si el autor pertenece a una organización criminal nacional o internacional o si el acto se realiza con ánimo de lucro.”

Unofficial English translation: “184. Anyone who manufactures, produces by any means, or creates pornographic material, or offers, trades, exhibits, publishes, spreads, or distributes it through the Internet or any mass media for national or international communication or information, presenting or virtually representing one or more individuals under the age of majority engaged in real or simulated sexual activities, will be punished with imprisonment for ten to fifteen years. The penalty will be fifteen to twenty years if the victim is a person under the age of fourteen, if the perpetrator belongs to a national or international criminal organization, or if the act is carried out for profit.”

Link: <https://www.organojudicial.gob.pa/uploads/blogs.dir/2/2020/12/462/codigo-penal-actualizado-almes-de-diciembre-de-2020.pdf>

d. remove or take down any child pornography, CSAM, enticement, grooming, or sextortion that they identify, become aware of, or are notified about

In Panama, there are no requirements for Online Platforms to remove or take down any child pornography, CSAM, enticement, grooming, or sextortion that they identify, become aware of, or are notified about. However, pursuant to the Article 184 of Panama’s Criminal Code, anyone who exhibits, publishes or advertises child pornography will face criminal charges and sanctions. This means the person posting child pornography online is criminally liable, however, it is not clear if the Online Platform itself would also be criminally liable for “hosting” such materials.

Article 184: “Quien fabrique, elabore por cualquier medio o produzca material pornográfico o lo ofrezca, comercie, exhiba, publique, difunda o distribuya a través de Internet o de cualquier medio masivo de comunicación o información nacional o internacional, presentando o representando virtualmente a una o varias personas menores de edad en actividades de carácter sexual, sean reales o simuladas, será sancionado con prisión de diez a quince años. La pena será de quince a veinte años si la víctima es una persona menor de catorce años, si el autor pertenece a una organización criminal nacional o internacional o si el acto se realiza con ánimo de lucro.”

Unofficial English translations: Article 184: “Anyone who manufactures, produces by any means, or creates pornographic material, or offers, trades, exhibits, publishes, spreads, or distributes it through the Internet or any mass media for national or international communication or information, presenting or virtually representing one or more individuals under the age of majority engaged in real or simulated sexual activities, will be punished with imprisonment for ten to fifteen years. The penalty will be fifteen to twenty years if the victim is a person under the age of fourteen, if the perpetrator belongs to a national [or international criminal organization or if the act is carried out for profit].”

Link: <https://www.organojudicial.gob.pa/uploads/blogs.dir/2/2020/12/462/codigo-penal-actualizado-almes-de-diciembre-de-2020.pdf>

e. review content by human moderators to screen or moderate for child pornography or CSAM

There is no applicable regulation requiring Online Platforms to review content by human moderators to screen or moderate for child pornography or CSAM.

- f. remove child pornography, CSAM, enticement, grooming, or sextortion from their systems when notified of its presence by a victim, nongovernmental organization, law enforcement, or government agency**

In Panama, there are no requirements for Online Platforms to remove child pornography, CSAM, enticement, grooming, or sextortion when notified of its presence by a victim, nongovernmental organization, law enforcement, or government agency. However, Article 184 of Panama's Criminal Code states that anyone who exhibits, publishes, advertises, disseminates, or distributes pornographic material through the internet or any national or international mass communication medium, presenting or virtually representing one or several minors engaging in activities of a sexual nature, whether real or simulated, will face criminal charges and sanctions that range from fifteen to twenty years. This means the person posting child pornography online is criminally liable, however, it is not clear if the Online Platform itself would also be criminally liable for "hosting" such materials.

Article 184 of Panama's Criminal Code states:

"Quien fabrique, elabore por cualquier medio o produzca material pornográfico o lo ofrezca, comercie, exhiba, publique, difunda o distribuya a través de Internet o de cualquier medio masivo de comunicación o información nacional o internacional, presentando o representando virtualmente a una o varias personas menores de edad en actividades de carácter sexual, sean reales o simuladas, será sancionado con prisión de diez a quince años. La pena será de quince a veinte años si la víctima es una persona menor de catorce años, si el autor pertenece a una organización criminal nacional o internacional o si el acto se realiza con ánimo de lucro."

Unofficial English translation: "184. Anyone who manufactures, produces by any means, or creates pornographic material, or offers, trades, exhibits, publishes, spreads, or distributes it through the Internet or any mass media for national or international communication or information, presenting or virtually representing one or more individuals under the age of majority engaged in real or simulated sexual activities, will be punished with imprisonment for ten to fifteen years. The penalty will be fifteen to twenty years if the victim is a person under the age of fourteen, if the perpetrator belongs to a national or international criminal organization, or if the act is carried out for profit."

- g. use any specific technology to detect, remove, block, or take down any child pornography, CSAM, enticement, grooming, or sextortion, including:**
- i. "Hashing technology"** (<https://www.thorn.org/blog/hashing-detect-child-sex-abuse-imagery/>). Many Online Platforms hash and tag images and videos of child pornography or CSAM and then use hashing technology to scan content on their systems to detect the distribution of child pornography or CSAM online so it can be removed.
 - ii. Artificial intelligence or machine learning tools to detect the presence of child pornography, CSAM, enticement, grooming, or sextortion.**

In Panama, there is no requirement for Online Platforms to use “Hashing technology” to detect, remove, block, or take down any child pornography, CSAM, enticement, grooming, or sextortion.

In Panama, there is no requirement for Online Platforms to use “artificial intelligence or machine learning tools” to detect, remove, block, or take down any child pornography, CSAM, enticement, grooming, or sextortion; however, current regulations do acknowledge the possibility that realistic images of children are being used.

- h. if the applicable laws or regulations require some, but not all, Online Platforms to perform any of the above activities, describe how the differing requirements apply. For example, are differences based on the number of online users, types of services offered, etc.?**

Unfortunately, Panama does not have robust regulations regarding Online Platforms in general. Consequently, there are currently no specific stipulations or varying requirements based on factors such as the number of online users or types of services offered. The lack of detailed regulations poses a challenge in establishing distinct criteria for different Online Platforms concerning the activities mentioned. As a result, a comprehensive framework addressing such nuances is yet to be developed in Panama.

As of this date, the only relevant regulation relating directly to Online Platforms in connection with child pornography is Law No. 22 of 22 June of 2007 and it specifically applies to entities providing computer services for internet use.

3. Are Online Platforms legally required or recommended to implement any method to verify the age of a user before allowing access to an online platform?

As of this date, the Republic of Panama does not have specific provisions addressing the mandatory implementation of age verification methods for Online Platforms.

However, there is one related regulation (Law No. 22 of 22 June of 2007) that revolves around prohibiting minors’ access to websites and emails with explicit content, concerning entities providing computer services for internet use

The mentioned regulation does not detail specific parameters or enforcement mechanisms for age verification processes. Instead, it concentrates on the installation of programs to prevent minors from accessing explicit material (such as pornographic content) and maintaining the effectiveness of these programs in order accomplish the prohibition, prevention, and restriction of minors’ access to such websites.

Regarding potential applicable sanctions, it stipulates that, without prejudice to any corresponding criminal liability, individuals failing to fulfill its obligations will face fines ranging from US\$1,000.00 to US\$10,000.00. In cases of repeated violations, fines escalate from US\$10,000.00 to US\$20,000.00, and the closure of the establishment may be imposed.

While the legislation doesn't explicitly address age verification for Online Platforms, it does underscore the broader context of ensuring that explicit content is inaccessible to minors.

Regulation:

Articles 1-8 – Law No. 22 of 22 June of 2007 – “That adopts measures for the protection of minors regarding the exhibition and production of pornographic material.”

Link: <https://docs.panama.justia.com/federales/leyes/22-de-2007-jun-25-2007.pdf>

4. Are Online Platforms legally required or recommended to implement any method to obtain parental consent before a child uses the services of such Online Platforms?

The Republic of Panama does not have any regulations relating to parental consent requirements for the use of Online Platforms.

However, Article 77 of Law No. 285 of 15 February 2022 relates to the protection of minors in the virtual space. Said regulation states the following:

Definition: “ARTÍCULO 77. Derecho a estar protegido en el espacio virtual. El reconocimiento del derecho del niño, niña y adolescente al acceso a la tecnología, al conocimiento, a la información y a la socialización en el espacio virtual garantizando su desarrollo pleno y armónico implica el derecho a ser protegido en este espacio. Es por ello que el Estado panameño tiene la responsabilidad de proteger a todos los niños, niñas y adolescentes contra toda forma de amenaza, omisión o violación de derechos, sin importar el medio que se utilice, incluyendo el espacio virtual, el uso de redes sociales, internet o cualquier vía electrónica. Para tales efectos, adoptará en corresponsabilidad con la familia, las autoridades administrativas y/o judiciales, la escuela y la comunidad medidas de protección tecnológicas.”

Unofficial English translation: “ARTICLE 77. Right to be protected in the virtual space. The recognition of the right of the child and adolescent to access technology, knowledge, information, and socialization in the virtual space, ensuring their full and harmonious development, implies the right to be protected in this space. Therefore, the Panamanian State has the responsibility to protect all children and adolescents against any form of threat, omission, or violation of rights, regardless of the means used, including the virtual space, the use of social networks, the internet, or any electronic avenue. To this end, it will adopt, in co-responsibility with the family, administrative and/or judicial authorities, the school, and the community, technological protection measures.”

Link: https://www.gacetaoficial.gob.pa/pdfTemp/29477_C/90195.pdf

Analysis: Article 77 underscores the right of children and adolescents to be protected in the virtual space, emphasizing their access to technology, knowledge, and information for their holistic development. This implies the need for protection against threats or violations of rights in the online realm. The Panamanian State assumes the responsibility to safeguard minors across all mediums, including the virtual space and online platforms. The reference to co-responsibility with the family, authorities, school, and community suggests a collaborative effort to implement technological protection measures. This aligns with the broader context of ensuring a secure online environment for minors, possibly implicating the need for parental consent requirements on online platforms as a protective measure.

5. Are there legal remedies for children who have been victimized by online child sexual exploitation? This may include children who are victimized by the distribution of child

pornography or CSAM imagery in which they are depicted, or children victimized by enticement, grooming or sextortion. If such legal remedies exist, do they include:

YES

- a. The ability to stop the publication of the pornography or CSAM imagery by the Online Platform?**

Presently, Panama lacks specific regulations that proactively authorize or enable the cessation of publications related to pornography. Instead, the country focuses on regulating consequences and implementing measures to address and combat such situations.

- b. An obligation on the part of the Online Platform to take active steps to remove the pornography or other imagery from their servers?**

Presently, Panama lacks active regulations that mandate Online Platforms to proactively remove pornography. The only existing regulation, Law No. 22 of 22 June 2007, pertains to the prohibition of minors' access to websites and emails with explicit content, particularly focusing on entities providing computer services for internet use.

- c. An ability to get an injunction or other court order against the Online Platform to stop them from publishing the pornography or imagery?**

Currently, Panama does not have specific regulations directly addressing injunctions against Online Platforms.

- d. A protective order or other court order that prohibits the person who posts the pornography or imagery from doing so in the future on the same or other Online Platform?**

Currently, Panama does not have specific regulations that provide protective orders or other court orders that prohibit a person who posts the pornography or imagery from doing so in the future on the same or other Online Platform.

- e. the ability to seek financial damages or any sort of monetary recovery from an offender who has shared the child's image or video, either in a civil or a criminal proceeding?**

In addition to the possible conviction applicable to the offender pursuant to articles 180, 184 and 185 of the Criminal Code, the victim of child pornography or sexual exploitation may claim moral damages pursuant to article 1644-A of the Civil Code.

Article 1644-A of the Civil Code:

“ARTÍCULO 1644-A

Dentro del daño causado se comprende tanto los materiales como los morales. Por daño moral se entiende la afectación que una persona sufre en sus sentimientos, afectos, creencias, decoro, honor, reputación, vida privada, configuración y aspecto físico, o bien en la consideración que de sí misma tienen los demás. Cuando un hecho u omisión ilícitos produzcan un daño moral, el responsable del mismo tendrá la obligación de repararlo, mediante una indemnización en dinero, con independencia de que se haya causado daño



material, tanto en materia de responsabilidad contractual, como extracontractual.

Si se tratare de responsabilidad contractual y existiere cláusula penal se estaría a lo dispuesto en ésta. Igual obligación de reparar el daño moral tendrá quién incurra en responsabilidad objetiva así como el Estado, las instituciones descentralizadas del Estado y el Municipio y sus respectivos funcionarios, conforme al Artículo 1645 del Código Civil.

Sin perjuicio de la acción directa que corresponda al afectado la acción de reparación no es transmisible a terceros por acto entre vivos y sólo pasa a los herederos de la víctima cuando ésta haya intentado la acción en vida. El monto de la indemnización lo determinará el juez tomando en cuenta los derechos lesionados, el grado de responsabilidad, la situación económica del responsable, y la de la víctima, así como las demás circunstancias del caso.

Cuando el daño moral haya afectado a la víctima en su decoro, honor, reputación o consideración, el juez ordenará, a petición de ésta y con cargo al responsable, la publicación de un extracto de la sentencia que refleje adecuadamente la naturaleza y alcance de la misma, a través de los medios informativos que considere convenientes.

En los casos en que el daño derive de un acto que haya tenido difusión en los medios informativos, el juez ordenará que los mismos den publicidad al extracto de la sentencia, con la misma relevancia que hubiere tenido la difusión original.”

*[**Note: The original response did not include an “Unofficial English translation” for this text as it did for other sections. NCMEC has added an automated translation here:*

“ARTICLE 1644-A

The damage caused includes both material and moral damage. Moral damage is understood as the impact that a person suffers on their feelings, affections, beliefs, decorum, honor, reputation, private life, configuration and physical appearance, or on the consideration that others have of themselves. When an unlawful act or omission causes moral damage, the person responsible for it will have the obligation to repair it, through monetary compensation, regardless of whether material damage has been caused, both in terms of contractual and extra-contractual liability.

If it were a matter of contractual liability and there was a penal clause, the provisions of this clause would apply. Whoever incurs objective liability will have the same obligation to repair moral damage as will the State, the decentralized institutions of the State and the Municipality and their respective officials, in accordance with Article 1645 of the Civil Code.

Without prejudice to the direct action that corresponds to the affected party, the action for reparation is not transferable to third parties by inter vivos act and only passes to the heirs of the victim when the victim has attempted the action while alive. The amount of compensation will be determined by the judge taking into account the injured rights, the degree of responsibility, the economic situation of the person responsible, and that of the victim, as well as the other circumstances of the case.

When the moral damage has affected the victim's decorum, honor, reputation or



consideration, the judge will order, at the victim's request and at the expense of the person responsible, the publication of an extract of the sentence that adequately reflects the nature and scope of the itself, through the information media it deems appropriate.

*In cases in which the damage derives from an act that has been disseminated in the media, the judge will order that they publicize the extract of the ruling, with the same relevance that the original dissemination would have had."**]*

f. the ability to seek any other forms of victim compensation/recovery/services provided for under the law and/or by a government-funded source?

Pursuant to article 46 of Law No. 409 of 16 November 2023, it is stated that the Office of the Attorney General of the Nation will initiate corresponding actions on behalf of children and adolescents in defense of their rights when the mother, father, representative, or guardian is unable to do so, for the best interests of the child or adolescent. Additionally, it will ensure proper assistance to children who are victims of crimes.

Therefore, it can be construed that any child who is a victim of any type of crime, including sexual exploitation or child pornography, will be aided by the Office of the Attorney General of the Nation in the process of carrying out the corresponding legal action against the perpetrator.

Furthermore, article 92 of Law No. 409 of 16 November 2023 expresses that children who are victims of abandonment, exploitation, abuse, torture or any other inhumane form of treatment, may request judicial protection, which means they will be taken under custody provisionally in order to aid in their situation.

Link: https://www.gacetaoficial.gob.pa/pdfTemp/29911/GacetaNo_29911_20231116.pdf

g. notification to a victim when an offender is arrested for distributing child pornography or CSAM in which the child is depicted?

Notification to a victim of an offender's arrest for distributing child pornography is initiated upon the issuance of a court order indicating the arrest. This arrest can be granted as a precautionary measure in favor of the minor during the ongoing legal proceedings. Subsequently, further notifications may occur after a sentence has been rendered, and the offender is convicted.

The previous statement can be supported by article 237 of the Criminal Procedural Code, that states that a judge may order the provisional detention of a person when they are being prosecuted for a crime that carries a minimum sentence of four years of imprisonment, and there is evidence substantiating the crime and the involvement of the accused, as well as a risk of flight, neglect of the legal process, danger of destroying evidence, or the potential for harm to the life or health of another person or oneself.

Since article 184 of the Criminal Codes states that the current sanction for child pornography is between fifteen to twenty years in prison, it can be construed that article 237 could apply.



Link: <https://www.organojudicial.gob.pa/uploads/blogs.dir/4/2023/09/406/ley-63-de-28-de-agosto-de-2008-que-adopta-el-codigo-procesal-penal.pdf>

6. “Safety by Design” is defined as tools or processes that are built into an Online Platform to protect children by making it easier for the relevant Online Platform to detect or prevent the distribution of child pornography or CSAM.

a. Are Online Platforms legally required to incorporate “Safety by Design” into their systems?

As of this date, the Republic of Panama does not have any existing regulations directly addressing or related to the concept of “Safety by Design”.

i. If so, must these steps be taken before the launch of an Online Platform?

N/A

ii. If so, if an Online Platform has already been in public use, when must they have incorporated “Safety by Design” measures?

N/A

iii. For each of 6(a)(i) or (ii) above, please describe the legal requirement or recommendation.

N/A

b. Please include information about the parameters for monitoring, management, and enforcement of any legal or regulatory requirements for the Online Platform’s incorporation of “Safety by Design”?

As of this date, the Republic of Panama does not have any existing regulations directly addressing or related to the concept of “Safety by Design”.