

LAW no. 140
of 14.06.2013

on the special protection of children at risk and of children separated from their parents

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Chapter I
GENERAL PROVISIONS

Article 1. Object of the law

The law establishes the procedures of identification, evaluation, assistance, referral, monitoring and record keeping of children at risk and children separated from their parents, as well as the authorities and structures in charge for the enforcement of these procedures.

Article 2. Scope of the law

Under this law, children are entitled to protection with no discrimination based on race, color, sex, language, religion, political or other beliefs, citizenship, ethnicity or social origin, status obtained at birth, financial situation, degree and type of disability, specific aspects of growth and education of children, parents or their legal representatives, place of residence (family, educational institution, social service, healthcare facility, community, etc.).

Article 3. Key notions

In the sense of this law, the used key notions have the following meanings:

central child protection authority – Ministry of Labor, Social Protection and Family empowered to develop, promote and monitor the enforcement of the state policy on child protection;
local guardianship authority – mayors of villages (communes) and cities;
territorial guardianship authority – Social Assistance and Family Protection Departments/Municipal Department for Child Protection of Chişinău. In Bălţi and Chişinău, territorial guardianship authorities also exercise the duties of local guardianship authority, except for the autonomous administrative-territorial units that are part of them where the duties of local guardianship authority are exercised by the mayors of the administrative-territorial units;

child – any individual who is under 18 and does not have full legal capacity;
child at risk – child who, after the assessment, is in one of the situations mentioned in art.8;
child separated from parents – child without parental care in cases when parents are absent, abroad, the child is taken from parents because of an imminent danger for his/her life or health, and when the child has the status of child without parental care on a temporary or permanent basis;

abandoned child – child identified as being without parents or any other legal representative in case when the identity data of the child and of his/her parents cannot be determined;
best interest of the child – providing adequate conditions for the child's smooth growth and development taking account of his/her individual particularities and the specific situation he/she is in;

family – parents and their children;

extended family – the child's relatives up to the 4th degree inclusively;
legal representative of the child – parent or legally appointed individual to protect the child's rights and interests;

case management – key working method of the specialist in child rights protection or of the social worker that is used to assess the needs of the child and his/her family in collaboration with them, coordinate, monitor, assess and support the child and his/her family so that they can receive social services and benefits to meet these needs;

multidisciplinary team – group convened by the specialist in child's rights protection or, in the absence of him/her, by the community social worker that comprises professionals from various areas with child protection duties who collaborate to prevent and/or solve cases of children at risk;

individual care plan – document of planning services, benefits and protection measures for the child on the basis of the complex assessment of the child and his/her family;

violence against the child – forms of maltreatment applied by parents/legal representatives/caregivers or any other persons that produce actual or potential harm to the child's health and endanger his/her life, development, dignity or morality and include the types of violence defined in art. 2 of Law no. 45-XVI of March 1, 2007 on Preventing and Fighting Domestic Violence;

child neglect – voluntary or non-voluntary omission or ignorance of responsibilities to raise and bring up the child, which endangers the child's physical, mental, spiritual, moral or social development, corporal integrity, physical and psychical health. The neglect can take the following forms:

a) *food neglect* – depriving the child of his/her food or the malnutrition of the child;
b) *clothing neglect* – lack of clothing and/or footwear, especially, the one that is required for the cold period of the year;

c) *hygiene neglect* – failure to observe the general rules of personal hygiene, insanitary living conditions that threaten the child's life or health;

d) *medical neglect* – lack or refusal to provide the necessary healthcare to protect the child's life, corporal integrity and health, failure to call the doctor in emergency cases;

e) *educational neglect* – refusal to enroll the child in an educational institution, non-enrollment of the child in an educational institution;

f) *emotional neglect* – ignoring the child's psycho-emotional problems;

g) *neglect in supervision* – putting or leaving the child in conditions or circumstances where the lack of supervision can lead to illnesses, traumas, exploitation or death of the child;

imminent danger – circumstances that indicate the existence of elements of a delinquency against the child's life and/or health and cannot have a serious impact on his/her physical and/or psychical integrity;

separation of the child from the parents – procedure of separating the child from the parents or caregivers that is conducted in line with this law and the Family Code;

placement – measure of protection of the child separated from his/her parents to provide them with conditions for the child's growth and care in placement services;

emergency placement – placement of the child whose life or health is in an imminent danger,

irrespective of the setting he/she is in, for up to 72 hours;

scheduled placement – placement of the child in a social service for a fixed period in line with the individual care plan;

specialist in child rights protection – civil servant employed in the Mayor's Office who supports the guardianship authority to fulfill its duties.

Article 4. Principles of protection of the child at risk and of the child separated from parents
Child protection follows the principles below:

- a) ensuring and promoting the best interest of the child;
- b) observing the priority on raising and bringing up the child in the family;
- c) the priority right of the parents to raise their children in line with their own beliefs and the primary responsibility of parents to raise, bring up and protect their children;
- d) the obligation of the state to provide the family with the necessary assistance for children's growth and education;
- e) equal opportunities and non-discrimination;
- f) inter-agency cooperation and multidisciplinary intervention;
- g) individualized assistance for every child;
- h) respecting the child's dignity;
- i) ensuring the child's participation in making decisions that concern him/her, taking account of his/her age and maturity;
- j) ensuring continuity in the child's growth and education, taking account of his/her ethnic, religious, cultural and language identity in case when a protection measure is taken;
- k) celerity in making any decision concerning the child;
- l) responsibility of the authorities to provide protection from child violence, neglect and exploitation.

Article 5. General activity framework for guardianship authorities

(1) Guardianship authorities must take all required actions to assist and support children and their families with a view to prevent the separation of the child from the family or to (re)integrate him/her in the family.

(2) The child's placement can be decided by the guardianship authority only if the assessment shows that the child cannot stay with his/her parents or that this contravenes his/her best interest.

(3) In case of separation of the child from the family, the guardianship authority must order the child's placement giving priority to the placement in kinship care in the extended family to the detriment of the other types of placement and, if this is impossible, the priority of placement in family-type services to the detriment of residential services.

Chapter II

DUTIES OF GUARDIANSHIP AUTHORITIES IN CHILD PROTECTION

Article 6. Duties of the local guardianship authority

(1) The local guardianship authority has the following duties:

- a) ensures the receipt and registration of notifications concerning the violation of children's rights, takes actions when children at risk are identified;
- b) coordinates the examination of notifications regarding the violation of children's rights;
- c) in cooperation with the territorial guardianship authority, takes the necessary measures to prevent the separation of the child from the family or to (re)integrate the child in the family;

- d) ensures the evaluation of families with children at risk and of children separated from their parents;
- e) ensures that the child is taken from parents or from caregivers if there is imminent danger for the child's life or health;
- f) ensures the emergency placement of children separated from their parents;
- g) ensures the establishment of guardianship on children whose parents are abroad;
- h) ensures that families with children at risk and children separated from their parents are included and removed from records;
- i) takes part in the procedure of taking the child away from his/her parents;
- j) issues and transmits to the territorial guardianship authority recommendations concerning the scheduled placement of children;
- k) cooperates, at local level, with institutions, structures and services in charge for child protection;
- l) coordinates the monitoring of families with children at risk and children separated from their parents;
- m) coordinates the analysis of the situation at local level regarding the protection of children at risk and of children separated from their parents;
- n) plans and decides on activities of raising people's awareness concerning the child's rights;
- o) takes the necessary measures to enforce the patrimonial rights of children without parental care;
- p) collaborates with territorial and central guardianship authorities to protect children at risk and children separated from their parents, including through mutual notification of issues of common interest.
- q) The local guardianship authority exercises its duties directly or via the specialist for child rights protection employed in the Mayor's Office.

Article 7. Duties of the territorial guardianship authority

The territorial guardianship authority has the following duties:

- a) receives, records and transmits, according to its competence, notifications on the violation of children's rights;
- b) provides support to the local guardianship authorities in the identification, evaluation and assistance of children at risk and children separated from their parents and participates in the process when necessary;
- c) in collaboration with the local guardianship authority, takes the necessary actions to prevent the separation of the child from the family or to (re)integrate him/her in the family;
- d) ensures the scheduled placement of children separated from their parents;
- e) ensures the establishment/withdrawal of the status of child without parental care on a temporary or permanent basis;
- f) ensures the establishment of the status of adoptable child;
- g) keeps the record of children without parental care on a temporary or permanent basis who are in scheduled placement, receives/systematizes data on children who are in the records of local guardianship authorities;
- h) ensures the representation of children's interests and rights in court;
- i) ensures the cooperation at national level of institutions, structures and services with child protection duties;

- j) determines the professional development needs of professionals involved in child protection in the field of children's rights enforcement;
- k) analyzes data on the situation of children from the administrative-territorial unit it operates in and makes suggestions to the regional/municipal council concerning the creation or development of social services in compliance with the identified needs;
- l) takes measures to raise people's awareness on children's rights;
- m) collaborates with local, territorial and central guardianship authorities for the protection of children at risk and of children separated from their parents, including through mutual notification on issues of common interest.

Chapter III

IDENTIFICATION, RECORD KEEPING AND ASSISTANCE OF CHILDREN AT RISK

Article 8. Identification of children at risk

The local guardianship authority is required to identify and/or receive and register notifications on children who are in the following situations:

- a) children are victims of violence;
- b) children are neglected;
- c) children practice vagrancy, begging and prostitution;
- d) children are without parental care and supervision because their parents are not at home for unknown reasons;
- e) children's parents have died;
- f) children live in the streets, have run away or been expelled from home;
- g) children's parents refuse to fulfill their parental duties regarding the child's growth and care;
- h) children have been abandoned by parents;
- i) children's parents have been deprived of their legal capacity by court decision.

Article 9. Assessment of the child's situation, record keeping and assistance for children at risk

(1) The local guardianship authority of the area where the child resides orders the specialist in child rights protection to carry out the initial assessment. If there is no specialist in child rights protection, the community social worker shall carry out this assessment with the involvement of professionals from healthcare, education, public order, etc.:

- a) within 24 hours – in case when the information mentioned in art. 8 letter a)–c) is received;
- b) immediately – if the content of notification indicates the existence of an imminent danger for the child and if information mentioned in art. 8 letter d)–i) is received.

(2) If the situations of risk listed in art. 8 letter a) and b) produced outside the family, the measures specified in par. (1) are taken with the consent of the child's parents/legal representative, except for situations when their disagreement contravenes the best interest of the child.

(3) If the situations of risk listed in art. 8 letter a)–c) produced in a placement service, the local guardianship authority of the area where the child resides takes the measures stipulated in par. (1) ensuring the security for the child's life and health and immediately informs the territorial guardianship authority that will decide on the child protection measures.

(4) If the initial assessment confirms the risk for the child, the local guardianship authority orders immediately to include the child at risk in its records.

(5) The register of children at risk is maintained by the local guardianship authority and is filled in by the specialist in child rights protection or, in his/her absence, by the community social

worker.

(6) The evaluation, assistance and monitoring of the child at risk is done using the case management method approved by the central child protection authority.

(7) If information on children who are in the situation of risk mentioned in art. 8 letter h) is received, the local guardianship authority or the specialist in child rights protection takes part in drafting the act of child abandonment in an institution or of the act regarding the detection of the child.

(8) If the child's place of residence is different from that of his/her parents, the local guardianship authority notifies the territorial guardianship authority of the area where the parents live to submit the necessary data for the initial and complex assessment of the child.

Article 10. Removal of the child from parents or caregivers

- (1) If the initial assessment shows the existence of an imminent danger for the child's life or health, the local guardianship authority orders immediately to take the child away from his/her parents or caregivers notifying the prosecutor within 24 hours.
- (2) The procedure of taking the child away from his/her parents or caregivers implies the compulsory participation of the local guardianship authority or its representative, of the specialist in child rights protection, community social worker, family doctor/nurse and of the local police officer.
- (3) In the situation mentioned in par. (1), the local guardianship authority, within 3 working days, will bring an action in court to deprive parents of their parental rights or to take the child away from his/her parents without depriving them of parental rights. If this requirement is not fulfilled, the child will be returned to his/her parents.
- (4) Except for the situation referred to in par. (1), the child is taken away from his/her parents only on the basis of a court decision regarding the deprivation of parental rights or of a court decision regarding the removal of the child from the family without depriving the parents from their parental rights in line with art. 67–69, 71 and 72 of the Family Code.

Chapter IV

PROTECTION OF CHILDREN SEPARATED FROM THEIR PARENTS

Article 11. Emergency placement

- (1) The local guardianship authority orders the emergency placement of the child and notifies the territorial guardianship authority of the area where the child has been placed in case of removal of the child from his/her parents under art. 10 par. (1) or if parents are missing in case when a child is identified in the situations specified in art. 8 letters d)–h).
- (2) Taking account of the child's best interest, he/she can be placed, as an emergency solution, in the:
 - a) family of relatives or other people with whom the child has close relations (neighbors, family friends, etc.) and who want to take the child to raise and bring him/her up in their family, based on their written request and the need to provide stability and continuity in the child's care, growth and upbringing, taking into consideration the child's ethnic, religious, cultural and language identity;
 - b) family-type placement services;
 - c) residential placement services.
- (3) The child who is separated from his/her parents can be placed for up to 72 hours as an emergency solution with the possibility to extend the placement for up to 45 days, when the complex assessment of the child must be conducted.

Article 12. Scheduled placement

- (1) The scheduled placement of the child takes place under the order of the territorial guardianship authority, with the recommendation of the local guardianship authority and only based on the positive recommendation of the Gate-keeping Commission, the organization and operation of which is regulated by the Government.
- (2) Children can be placed in:
 - a) kinship care (guardianship);
 - b) family-type placement service (family-type home, foster care);
 - c) residential placement service (community home, temporary placement center, other type of residential institution).

Article 13. Children whose parents are abroad

- (1) The information on the identification of children whose parents/parent are/is abroad is presented to the local guardianship authority by:
 - a) the administration of educational institutions – every semester, by the 30th of October and by the 30th of April of every year;
 - b) the specialist in child rights protection, community social worker, family doctor/nurse or local police officer – within 3 days from the identification of the child.
- (2) Based on the information mentioned in par. (1), the local guardianship authority orders the specialist in child rights protection to assess the situation of the child. If there is no specialist in child rights protection, the community social worker shall carry out this assessment. After the assessment, the local guardianship authority issues, with the consent of the parents/parent, the order to establish guardianship on the child in line with the legislation if the initial assessment revealed that the conditions of child's growth and upbringing are adequate.
- (3) The assessment of the child by the specialist in child rights protection or, in his/her absence, by the community social worker is carried out within 30 days.
- (4) The parents/parent leaving abroad for more than 3 months and leaving their children in Moldova must inform the local guardianship authority in advance about the person who will look after the children.

Chapter V

DETERMINING THE CHILD'S STATUS

Article 14. Children without parental care on a temporary basis

- (1) The status of child without parental care on a temporary basis is assigned to children:
 - a) whose parents are missing for more than 30 days because they receive inpatient treatment in healthcare facilities, which is confirmed by the medical certificate issued by the corresponding healthcare facility;
 - b) whose parents are unable to fulfill their duties of raising and bringing up children because of serious health problems, being bedridden, which is confirmed by the certificate of the Council for Medical Examination of Vitality or by the medical certificate issued by the healthcare facility where the patient is treated;
 - c) whose parents are under arrest, which is confirmed by a decision of the court;
 - d) taken away from parents without deprivation of parental rights of the latter, which is confirmed by a decision of the court;
 - e) whose parents are missing, wanted by the law enforcement bodies for crimes, which is

- confirmed by an act issued by the police;
- f) whose parents have been punished with deprivation of freedom, which is confirmed by a decision of the court;
 - g) whose identity data is not known;
 - h) in relation to the parents of whom there are ongoing trials aimed at depriving them of their parental rights, restricting their legal capacity or declaring them legally incapable or declaring them missing or dead.
- (2) The status of child without parental care on a temporary basis is withdrawn if:
- a) paternity is recognized or established in line with art. 47 par. (5)–(6) and art. 48 of the Family Code;
 - b) the circumstances stipulated in par. (1) letter a) and b) of this article cease and it is determined that the parents/parent are/is able to fulfill their rights and obligations related to children's growth and upbringing, which is confirmed by the recommendation of the local guardianship authority from the area where parents have their domicile;
 - c) a certificate of discharge from a penitentiary or from under arrest of the child's mother/father is presented, as well as their request to return the child filed with the territorial guardianship authority that established the child's status, as well as the recommendation of the local guardianship authority of the area where parents have their domicile concerning the opportunity of returning the child to his/her mother/father for upbringing, drafted after the assessment of the parents' moral guarantees and financial situation performed by the community social worker;
 - d) the court decision on taking the child away from his/her parents without depriving them from parental rights is annulled;
 - e) the court decision on returning the child taken away from his/her parents without depriving them from parental rights is issued;
 - f) the mother/father is discharged from criminal investigation or the criminal investigation in relation to them is stopped under art. 284 and 285 of the Criminal Procedure Code;
 - g) the child reaches the age when he/she has legal capacity;
 - h) documents are obtained confirming the identity of the child whose identity data was not known and the identity of the child's parents on the basis of the decision of the local guardianship authority of the area where parents have their domicile regarding the opportunity of returning the child drafted after the assessment of the parents' moral guarantees and financial situation conducted by the community social worker.

Article 15. Children without parental care

- (1) The status of child without parental care is assigned to children whose parents:
- a) are deceased, which is confirmed by a death certificate;
 - b) have been deprived of parental rights, which is confirmed by a court decision;
 - c) have been declared legally incapable, which is confirmed by a court decision;
 - d) have been declared missing, which is confirmed by a court decision;
 - e) have been declared deceased, which is confirmed by a court decision;
 - f) have abandoned them, which is confirmed by a court decision.
- (2) The status of child without parental care is withdrawn if:
- a) the court decision on deprivation of parental rights is cancelled;
 - b) the child's mother/father is reinstated in their parental rights;
 - c) the child is adopted and the adoption is approved by court decision;
 - d) the paternity is recognized or established in line with art. 47 par. (5) and (6) and art.

- 48 of the Family Code;
- e) the court decision that declares the child's mother/father legally incapable is cancelled;
- f) the court decision that declares the child's mother/father legally capable is issued;
- g) the court decision that declares the child's mother/father missing is cancelled;
- h) the court decision that declares the child's mother/father deceased is cancelled;
- i) the child has reached the age when he/she has legal capacity.

Article 16. Term of determining the status of child without parental care on a temporary or permanent basis

- (1) The territorial guardianship authority that has the child in its records, in cooperation with the local guardianship authority, takes the necessary measures to (re)integrate the child in the family or to establish the child's status. These actions must be carried out, cumulatively, within 6 months.
- (2) The (re)integration of the child in the family is conducted in line with an individual care plan.

Article 17. Establishing the child's status

- (1) The order on establishing or withdrawing the status of child without parental care on a temporary or permanent basis is issued by the territorial guardianship authority.
- (2) Beside issuing the order on the establishment of the status of child without parental care on a permanent basis, the territorial guardianship authority issues an order on establishing the status of adoptable child, introducing the child in the records and taking measures of child adoption under the legislation, except for children without parental care who are placed in kinship care.

Article 18. Record keeping of children separated from their parents

- (1) The record of children separated from their parents is kept by:
 - a) the local guardianship authority that ordered the emergency placement or the establishment of the guardianship on children whose parents are abroad;
 - b) the territorial guardianship authority that issued the order on scheduled placement;
 - c) the central child protection authority using data provided by the territorial guardianship authorities.
- (2) The registers of children separated from their parents are maintained by the local guardianship authority and the employees of territorial guardianship authorities.

Chapter VI

COOPERATION ON CHILD PROTECTION

Article 19. Cooperation between guardianship authorities

Local and territorial guardianship authorities from different administrative-territorial units are required to cooperate in the field of child protection by obtaining and transmitting information and documents that are required to identify, assess, assist and establish the status of children.

Article 20. Inter-agency cooperation

The employees of central and local public authorities, structures, institutions and services within or subordinated to them that operate in the fields of social assistance, education, healthcare, law enforcement in compliance with the inter-agency cooperation mechanism approved by the Government are required:

- a) to transmit to the corresponding guardianship authority notifications on children at risk and on cases of child abuse, neglect or exploitation in social services, healthcare, educational, cultural institutions;
- b) to participate in the work of multidisciplinary teams in the initial and complex assessment of the child at the request of the local guardianship authority and in the development and implementation of the individual care plan;
- c) to carry out actions aimed at preventing situations of risk for children.

Chapter VII LIABILITY

Article 21. Observance of terms and procedures in the work of guardianship authorities

- (1) Guardianship authorities are required to observe the terms and procedures when identifying, registering, placing, establishing the status, monitoring the situation of children and presenting information to the line authorities according to this law, the regulation of activity approved by the Government and other bylaws.
- (2) In case of non-observance of the terms and procedures provided for in the legislation, people in charge can be sanctioned in compliance with the law.

Article 22. Liability for the violation of this law

- (1) The violation of this law implies disciplinary, civil, administrative or criminal liability, in line with the legislation in force.
- (2) The following actions/inactions of the line authorities, institutions or people are punishable:
 - a) non-observance of the legal conditions of receiving and registering notifications on children at risk;
 - b) unjustified violation of the legal term for initiating or conducting the initial assessment of the child and for setting his/her status or (re)integrating him/her in the family;
 - c) inappropriate assistance or monitoring of children at risk, children without parental care on a temporary or permanent basis;
 - d) groundless delay of the presentation by the central child protection authority of information on children separated from their parents, children without parental care on a temporary or permanent basis;
 - e) failure to check the conditions of care, upbringing and education in the family of children at risk who are included in the records and of children in placement;
 - f) placement of children separated from their parents or without parental care on a temporary or permanent basis in residential services without reasons or with the violation of the legal terms;
 - g) groundless violation of the legal term set for informing the guardianship authority about children at risk;
 - h) groundless failure of parents, people replacing them or caregivers to fulfill the lawful instructions of the guardianship authority aimed at respecting children's rights and interests;
 - i) non-fulfillment or inadequate fulfillment by parents or people replacing them of parental duties if this determined the emergency placement of the child;
 - j) any form of elusion of parents or people replacing them from the reintegration of the child in the family;
 - k) leaving the child in an imminent danger because of the lack of supervision by parents, legal representatives or caregivers.
- (3) The material or moral damage caused to the child by natural or legal persons shall be repaired

under the law.

Chapter VIII
FINAL AND TRANSITORY PROVISIONS

Article 23

- (1) This law enters into force on January 1, 2014.
- (2) The Government, within 6 months from the entry into force of this law shall:
 - a) present proposals to the Parliament on bringing the current legislation in compliance with this law;
 - b) bring its bylaws in compliance with this law;
 - c) develop and adopt the necessary bylaws for the implementation of this law.
- (3) On the date of entry into force of this law, the Family Code no. 1316-XIV of October 26, 2000 (Monitorul Oficial of the Republic of Moldova, 2001, no. 47–48, art. 210), with further amendments shall be modified as follows:
 1. In article 3, the text “the conditions, methods, forms and effects of the legal protection of orphan children and children without parental care or in other vulnerable situations” is excluded.
 2. In article 71 paragraph (3), the text “7 days” is replaced with “3 working days”.
 3. Chapter 17 is abrogated.

CHAIR OF THE PARLIAMENT Igor CORMAN

No. 140. Chişinău, June 14, 2013.