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The extension of the duration of custodial socio-educational measures and the lowering of the age of criminal responsibility: effectiveness in combating recidivism or violation of the principle of integral protection?

O aumento do tempo de duração das medidas socioeducativas de internação e a redução da maioridade penal: efetividade no combate à reincidência ou afronta ao princípio da proteção integral?

El aumento de la duración de las medidas socioeducativas de internamiento y la reducción de la edad de responsabilidad penal: ¿eficacia para combatir la reincidencia o vulneración del principio de protección integral?

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Abstract: This article analyzes, in the light of the Brazilian legal system, the proposal to extend the maximum length of confinement of adolescents in conflict with the law, provided for in the Bill No. 1.473/2025, and the proposal to reduce the penal age of the proposed Amendment to the Constitution No. 32/2015, under process in the House of Representatives. The research problem is to verify whether such measures are capable of reducing the repetition of infractions or whether, on the contrary, they are in tension with the constitutional principles of integral protection, absolute priority and the peculiar condition of a developing person. The research is bibliographic, documentary and jurisprudential, with the use of legislation, official documents, national data of the National System of Socio-educational Care, decisions and understandings of the Supreme Court and the Superior Court of Justice, as well as national and international scientific production. The results indicate that the current legislation already establishes a specific and responsible state response, based on socio-educational measures, and confinement is currently exceptional and limited to three years. The PL no 1.473/2025 aims to raise this limit to five years and, in certain hypotheses of violence, serious threat or act analogous to heinous or equated crime, to up to ten years. PEC # 32/2015 intends to establish the full civil and age of criminal responsibility at sixteen. The analysis of the available data does not allow us to state that the simple extension of the time of deprivation of liberty or the submission of adolescents to the adult penal system produces a reduction in recurrence. On the contrary, studies and surveys indicate the relevance of factors such as education, family ties, social conditions, post-measured follow-up and quality of socio-educational execution. It is concluded that facing juvenile violence requires proportional and effective responses, but the available evidence does not support the idea that the isolated hardening of the state response is sufficient to reduce the infractional reiteration, especially when considered the constitutional model of integral protection.

Keywords: adolescents in conflict with the law; socio-educational measures; confinement; criminal age; integral protection; recurrence; challenges in execution.

Resumo: O presente artigo analisa, à luz do ordenamento jurídico brasileiro, a proposta de ampliação do tempo máximo de internação de adolescentes em conflito com a lei, prevista no Projeto de Lei nº 1.473/2025, e a proposta de redução da maioridade penal constante da Proposta de Emenda à Constituição nº 32/2015, em tramitação na Câmara dos Deputados. O problema de pesquisa consiste em verificar se tais medidas apresentam aptidão para reduzir a reiteração de atos infracionais ou se, ao contrário, entram em tensão com os princípios constitucionais da proteção integral, da prioridade absoluta e da condição peculiar de pessoa

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em desenvolvimento. A pesquisa é bibliográfica, documental e jurisprudencial, com utilização de legislação, documentos oficiais, dados nacionais do Sistema Nacional de Atendimento Socioeducativo, decisões e entendimentos do Supremo Tribunal Federal e do Superior Tribunal de Justiça, além de produção científica nacional e internacional. Os resultados indicam que a legislação vigente já estabelece uma resposta estatal específica e responsabilizadora, fundada em medidas socioeducativas, sendo a internação excepcional e limitada, atualmente, a três anos. O PL nº 1.473/2025 pretende elevar esse limite para cinco anos e, em determinadas hipóteses de violência, grave ameaça ou ato análogo a crime hediondo ou equiparado, para até dez anos. A PEC nº 32/2015 pretende estabelecer a plena maioridade civil e penal aos dezesseis anos. A análise dos dados disponíveis não permite afirmar que a simples ampliação do tempo de privação de liberdade ou a submissão de adolescentes ao sistema penal adulto produzam redução da reincidência. Ao contrário, estudos e levantamentos apontam a relevância de fatores como educação, vínculos familiares, condições sociais, acompanhamento pós-medida e qualidade da execução socioeducativa. Conclui-se que o enfrentamento da violência juvenil exige respostas proporcionais e efetivas, mas a evidência disponível não sustenta a ideia de que o endurecimento isolado da resposta estatal seja suficiente para reduzir a reiteração infracional, especialmente quando considerado o modelo constitucional de proteção integral.

Palavras-chave: adolescente em conflito com a lei; medidas socioeducativas; internação; maioridade penal; proteção integral; reincidência; desafios na execução.

Resumen: El presente artículo analiza, a la luz del ordenamiento jurídico brasileño, la propuesta de ampliación del tiempo máximo de internación de adolescentes en conflicto con la ley, prevista en el Proyecto de Ley no 1.473/2025, y la propuesta de reducción de la mayoridad penal constante de la Propuesta de Enmienda a la Constitución no 32/2015, en tramitación en la Cámara de Diputados. El problema de investigación consiste en verificar si tales medidas presentan aptitud para reducir la reiteración de actos infracionales o si, al contrario, entran en tensión con los principios constitucionales de la protección integral, de la prioridad absoluta y de la condición peculiar de persona en desarrollo. La investigación es bibliográfica, documental y jurisprudencial, con utilización de legislación, documentos oficiales, datos nacionales del Sistema Nacional de Atención Socioeducativa, decisiones y entendimientos del Supremo Tribunal Federal y del Superior Tribunal de Justicia, además de producción científica nacional e internacional. Los resultados indican que la legislación vigente ya establece una respuesta estatal específica y responsabilizadora, fundada en medidas socioeducativas, siendo la internación excepcional y limitada, actualmente, a tres años. El PL no 1.473/2025 pretende elevar ese límite a cinco años y, en determinadas hipótesis de violencia, grave amenaza o acto análogo a crimen hediondo o asimilado, para hasta diez años. La PEC no 32/2015 pretende establecer la plena mayoridad civil y penal a los dieciséis años. El análisis de los datos disponibles no permite afirmar que la simple ampliación del tiempo de privación de libertad o la sumisión de adolescentes al sistema penal adulto producen reducción de la reincidencia. Al contrario, estudios y levantamientos apuntan la relevancia de factores como educación, vínculos familiares, condiciones sociales, acompañamiento posmedida y calidad de la ejecución socioeducativa. Se concluye que el enfrentamiento de la violencia juvenil exige respuestas proporcionales y efectivas, pero la evidencia disponible no sustenta la idea de que el endurecimiento aislado de la respuesta estatal sea suficiente para reducir la reiteración infracional, especialmente cuando considerado el modelo constitucional de protección integral.

Palabras clave: adolescente en conflicto con la ley; medidas socioeducativas; internación; mayoridad penal; protección integral; reincidencia; desafíos en la ejecución.

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1. Introduction

Youth violence is a topic of high social and legal relevance. The practice of infractions that affect relevant legal assets causes legitimate concern of society and requires from the State an answer capable of holding the adolescent responsible, protecting the victims and preventing new occurrences. However, the definition of the state response cannot be performed exclusively from the perspective of punishment. In the Brazilian Constitutional State, children and adolescents are holders of fundamental rights and recipients of special protection, due to the peculiar condition of developing people.

The Federal Constitution of 1988 broke with previous models of treatment of childhood and adolescence by consecrating, in article 227, the doctrine of integral protection and the principle of absolute priority. The constitutional text assigns to the family, society and the state the duty to ensure, with absolute priority, fundamental rights and to place children and adolescents free from negligence, discrimination, exploitation, violence, cruelty and oppression. In Art. 228, in turn, states that children under 18 years of age are penally immutable and are subject to the rules of special legislation (BRASIL, 1988).

The special legislation mentioned by the Constitution finds its main expression in the Statute of Children and Adolescents (ECA), established by Law 8.069/1990. The Statute establishes that the adolescent offender is subject to socio-educational measures that have accountability content, but should be applied in accordance with the principles of the juvenile justice system. Among these measures is confinement, a private modality of freedom that, according to article 121 of the ECA, submits to the principles of brevity, exceptionality and respect for the peculiar condition of a developing person (BRASIL, 1990).

It is in this scenario that the legislative proposals are the object of this study. The Bill No. 1,473/2025, authored by Senator Fabiano Contarato, aims to tighten the provisions concerning confinement. According to the text approved in the Senate and forwarded to the House of Representatives, the proposal provides for a maximum period of five years for confinement and, in cases of infraction committed with violence or serious threat to the person or analogous to heinous or equated crime, a maximum period of ten years. The project also provides for changes regarding the reassessment of the measure and the situation of the adolescent who reaches age during its execution (BRASIL, 2025a).

PEC no 32/2015, authored by Mr Gonzaga Patriota, has a distinct and equally relevant object. The proposition in the House of Representatives intends to change the articles 14 and

228 of the Federal Constitution to establish the full civil and age of criminal responsibility at sixteen. In 2026, the proposal came to be examined by the Special Commission, after its admissibility, and remained in process. Therefore, it is a constitutional proposal not yet incorporated into the current legal system (BRASIL, 2015).

The research problem is to verify whether the increase in the maximum length of custodial placement, provided for in the PL no. 1,473/2025, combined with the reduction of the criminal age sought by the PEC no. 32/2015, is an effective instrument to combat juvenile crime or is an affront to the constitutional principles of integral protection and absolute priority.

The hypothesis of work is constructed in a critical way: although society has a legitimate interest in accountability for serious infractions, it cannot be assumed that the longer time of deprivation of liberty or transfer to the adult criminal system results in less infractional reiteration. The effectiveness of a public security policy must be measured by concrete results, and not only by the intensity of the punitive response. Thus, the legal question needs to be accompanied by an empirical question: are there data capable of demonstrating that these measures produce a reduction in recurrence or infringing repetition?

The methodology adopted is qualitative, legal-dogmatic and socio-legal, with bibliographic, documentary and jurisprudential research. The Federal Constitution, the Statute of Children and Adolescents, the SINASE Law, the legislative texts of the PL no. 1,473/2025 and the PEC no. 32/2015, documents of the Ministry of Human Rights and Citizenship, decisions and understandings of the STJ, materials of the CNJ, scientific production and international human rights documents were examined. Empirical data are used descriptively and critically, with no intention of establishing causality where the sources do not allow it.

The relevance of the study also stems from the current legislative moment. In September 2026, the Special Commission of the Chamber of Deputies responsible for the PEC 32/2015 held a deliberative meeting and approved requests for public hearings involving issues such as the petrea clause, conditions of the prison system, absolute priority, development neuroscience, international experiences of juvenile justice and the relationship between education and recidivism. The parliamentary agenda itself demonstrates that the discussion is not limited to the political convenience of reducing age, but involves constitutional, criminological, social and public policy issues.

2 The adolescent’s responsibilization in conflict with law in brazilian legal order

The responsibility of the adolescent offender is one of the central themes of the contemporary legal debate on juvenile justice. In Brazilian order, this regime is based on the doctrine of integral protection, enshrined in the 1988 Federal Constitution and developed by the Statute of Children and Adolescents and the National System of Socio-educational Care. This section examines the constitutional and legal foundations of this system, the socio-educational measures provided in the ECA and, in particular, the nature, purpose and legal limits of the measure of confinement, with the aim of demonstrating that the current order already offers firm and proportional state responses, without the need to equate with the adult penal system.

2.1 The doctrine of integral protection and the 1988 federal constitution

The 1988 Federal Constitution represents a decisive milestone in the legal protection of childhood and adolescence. Art. 227 does not establish merely programmatic protection, but imposes concrete duties on the family, society and the state. The expression "absolute priority" reveals that the rights of children and adolescents should occupy a privileged position in the formulation and implementation of public policies. Constitutional protection covers individual, social and coexistence rights, as well as the obligation to prevent and combat situations of violence and oppression (BRASIL, 1988).

The doctrine of integral protection surpasses the old tutelary conception that treated children and adolescents as objects of state intervention. The constitutional change recognizes them as subjects of rights, without dispelling the possibility of accountability when practicing conducts defined as an infraction. The legal consequence of comprehensive protection is not the absence of a state response, but the requirement that this response be differentiated, proportional and compatible with the development of adolescents.

Article 228 of the Constitution establishes the criminal immutability of children under eighteen. The rule does not mean no accountability. It means that accountability occurs according to special legislation, especially ECA and SINASE. Thus, the Brazilian system adopts a logic of youth responsibility, which is not confused with the criminal imputation of adults.

integral protection should also be interpreted in conjunction with article 227, § 3o, especially regarding the special protection granted to adolescents deprived of liberty. The Constitution determines that deprivation of liberty should observe respect for the peculiar condition of a developing person. Therefore, the discussion about increased confinement cannot

be reduced to an abstract comparison between three, five or ten years. It is necessary to verify whether the expansion is compatible with the constitutional purpose of the measure and with the obligation to preserve the development of adolescents.

Internationally, the Convention on the Rights of the Child, which was internalized by Brazil, consolidated similar parameters. The Committee on the Rights of the Child of the United Nations, in its General Comment No. 24, points out that the deprivation of children's freedom should be used as a last resort measure and for the most appropriate short period. The document also recommends periodic review of the detention and enhancement of non-primary alternatives of freedom (UNITED NATIONS, 2019).

2.2 The socio-educational measures provided for in the child and adolescent statute

The ECA defines as an infraction the conduct described as a crime or criminal offense. The adolescent offender does not receive a criminal penalty, but can be subjected to the socio-educational measures provided for in article 112. They are: warning; obligation to repair damage; provision of services to the community; assisted freedom; insertion in a semi-freedom regime; confinement in an educational establishment; and other appropriate protective measures.

The existence of different measures shows that the system is not built on the logic that every infringement should lead to deprivation of freedom. On the contrary, legislation establishes gradation and individualisation. confinement is the most intense measure, which is why it is subject to specific requirements. Article 122 of the ECA restricts its application to the legally foreseen hypotheses, including an offence committed by serious threat or violence to the person, reiterating the committing of other serious infringements and repeated and unjustified non-compliance with the measure previously imposed.

The socio-educational system therefore combines accountability and pedagogical purpose. Law No. 12.594/2012, which establishes the National System of Socio-educational Care – SINASE, establishes objectives related to the responsibility of adolescents regarding the harmful consequences of the act, social integration through compliance with the Individual Care Plan and the disapproval of the infractional conduct, using the sentence as the maximum parameter for deprivation or restriction of rights, observed the legal limits (BRASIL, 2012).

The coexistence of these objectives prevents simplistic reading according to which the socio-educational measure would be mere punishment with another name. The system admits severe restriction of freedom, but links its implementation to education, professionalization,

health, family and community coexistence, participation and construction of a life project. Responsibility is indispensable, but must occur within a legal architecture that recognizes adolescence as a specific stage of human development.

2.3. The socio-educational measure of confinement: legal nature, purpose and legal limits

confinement is a private measure of freedom. Its gravity requires strict compliance with the principles set out in Article 121 ECA. Currently, the caput determines that confinement is subject to the principles of brevity, exceptionality and respect for the peculiar condition of a developing person. Paragraph 2 provides for a reassessment of the maintenance of the measure by reasoned decision not later than every six months. § 3 states that, in no case, the maximum period of confinement may exceed three years (BRASIL, 1990).

The three-year limit is not equivalent to a previously fixed sentence. The measure does not involve a fixed period, and its maintenance depends on the evolution of the adolescent and the periodic judicial evaluation. The limit works as an absolute ceiling. Thus, confinement may end before three years when the purpose of the measure is achieved or when its maintenance is no longer justified, but can never exceed the legal limit.

The Superior Court of Justice has consolidated the importance of this limit. This understanding was based on the Summary No. 338 of the STJ (STJ, 2012a), which recognizes the applicability of criminal prescription to socio-educational measures. In 2020, when dealing with the prescription of a socio-educational measure applied without a final term, the Court stated that the prescribed period should consider as a parameter the maximum length of confinement, of three years. In 2022, the STJ also decided that the period of medical treatment resulting from mental illness should be counted within the maximum period of three years, relating the interpretation to the principles of mitigated punishment, brevity, minimum intervention and non-discrimination (STJ, 2020; STJ, 2022).

The most recent case law of the STJ reinforces that the concrete gravity of the infraction can justify confinement, provided that the legal requirements are present. Additionally, the Summary No. 492 of the STJ (STJ, 2012b) states that "the infractional act analogous to drug trafficking alone does not necessarily lead to the imposition of socio-educational measure of confinement of adolescents", reaffirming that the abstract gravity of the infractional act is not enough to justify the private measure of freedom. The 263 edition of Jurisprudence in Theses,

published in 2025, records an understanding that the concrete gravity of the infraction justifies the imposition of confinement, based on article 122, I, of the ECA.

The same edition also states that the infraction of adolescents does not necessarily impose the establishment of the socio-educational measure of confinement (art. 122, II, ECA), reaffirming the need for individualized analysis. This shows that the system does not prevent firm responses to serious acts; however, it requires that the restriction of freedom remains legally grounded and individualized (STJ, 2025).

The nature of confinement should also be analyzed from the perspective of execution. The deprivation of freedom, when applied, does not eliminate rights. The adolescent remains a holder of fundamental rights and must receive educational, professional, health, psychological and social care. In this sense, the STF, in HC no 143,988/ES (STF, 2020), recognized the violation of fundamental rights of adolescents hospitalized for structural deficiencies and determined that the execution units do not exceed their projected capacity.

The foundations of ADPF number 347 (STF, 2023), which recognized the unconstitutional state of the prison system, were also evoked in debates about the conditions of execution of the confinement measures.

The quality of the execution is therefore a relevant element to evaluate the effectiveness of the measure. The mere temporal duration does not inform, in isolation, whether there was accountability, learning, reduction of risk factors or preparation for the return to the community.

3. Proposals for indurement of the adolescent's responsibilization

The contemporary Brazilian legislative agenda includes two proposals to harden the responsibility of adolescents in conflict with the law that deserve careful examination: the Bill No. 1,473/2025, which aims to extend the maximum length of confinement from three to ten years, and the Proposal for Amendment to the Constitution No. 32/2015, which aims to reduce the penal age to sixteen years. This section analyzes the content of each proposition, its stated foundations and favorable and contrary arguments, seeking to identify the tensions between the proposals and the principles that structure the current socio-educational system.

3.1. PL 1.473/2025 and the extension of the maximum length of stay

The Bill No. 1,473/2025 was presented by Senator Fabiano Contarato and later referred to the House of Representatives. The menu indicates that the proposition alters the ECA to tighten the provisions on the confinement measure and modifies the Penal Code regarding age

criteria for attenuating and reducing prescriptive deadlines. In the House of Representatives, the project remains under process and awaits the opinion of rapporteur in the Committee on the Defense of the Rights of the Elderly, after referral to the competent committees (BRASIL, 2025a).

For the purposes of this work, it is of particular interest to amend Article 121 of the ECA. The text approved in the Senate states that the maximum period of confinement would be five years, except for cases in which the infraction was committed with violence or serious threat to the person or is analogous to heinous or equated crime, hypotheses in which confinement could reach ten years. The proposal also provides for annual re-evaluation of the measure, replacing the currently foreseen maximum six months interval.

The legislative justification presents the expansion as a response to the need to strengthen accountability in the face of serious criminal acts. The text also seeks to avoid the contact of the adolescent who reaches age during the execution with adult prison establishments, creating the prediction of a specific unit. The stated intention is to preserve socio-educational continuity and prevent contact with the common prison system from damaging resocialization (BRASIL, 2025b).

The proposal therefore presents an apparent double purpose: on the one hand, to increase the capacity of state restraint; on the other hand, to preserve the differentiated nature of socio-educational execution even when the adolescent is eighteen years old. The second purpose is consistent with the need not to automatically transform the socio-educational measure into a common prison sentence. The first, however, needs to be submitted to empirical test: does the extension of the time of deprivation of liberty effectively reduce the repetition?

Another relevant aspect is the change in the frequency of reassessment. The proposal to move from six months to one year can have a significant effect on judicial control of execution. Periodic review is not a simple formality, as it allows verifying whether the maintenance of confinement remains necessary. The longer the measure, the greater the importance of control mechanisms capable of preventing deprivation time from extending without correspondence with the socio-educational purpose.

At this point, there is possible tension with international parameters. The General Comment No. 24 of the Committee on the Rights of the Child recommends that deprivation of liberty be used as a last resort and for the most appropriate short period, with regular opportunities for release and review. This does not mean that any legislative extension is automatically invalid, but means that the increase in the deadline should be analyzed in the light of the proportionality and exceptionality of deprivation of liberty (UNITED NATIONS, 2019).

3.2. PEC 32/2015 and the reduction of criminal age

The PEC no 32/2015 that interests this study is the proposition of the House of Representatives authored by Mr Gonzaga Patriota. Its menu provides for the alteration of the articles. 14 and 228 of the Federal Constitution to establish full civil and age of criminal responsibility at sixteen. The proposal was presented on May 5, 2015 and, after years of processing, it became part of a Special Commission created in 2026, which also analyzes attached proposals on the same subject (BRASIL, 2015).

The PEC has a broader scope than simply reducing the age of criminal imputation, because it also intends to change the civil majority. However, in the context of this article, the central point is the modification of article 228. Currently, the Constitution establishes the criminal immutability of children under eighteen. If approved in the proposed terms, the PEC would change the constitutional framework of criminal liability.

The constitutional debate is complex because it involves article 60, § 4, IV, of the Constitution, which prevents amendments aimed at abolishing individual rights and guarantees. Part of the doctrine maintains that the criminal immutability of children under eighteen constitutes a materially fundamental individual guarantee and therefore would be protected as a petrea clause. There is, however, a contrary position, according to which art. 228 does not integrate the nucleus protected by the petrea clauses and could be modified by the derived constituent power.

It is important not to present this controversy as a question already definitively solved by the STF. The existence of decisions and demonstrations around previous proposals to reduce the age does not amount to a general and final declaration of the Supreme Court on the constitutionality or unconstitutionality of any and all changes in article 228. The current process of the PEC itself demonstrates that the theme continues to be the object of institutional debate.

On September 1, 2026, the Special Commission approved requests for public hearings on the nature of the penal age as a petreous clause, the effects of imprisonment, absolute priority, development neuroscience, international experiences and the relationship between education and recidivism. The diversity of themes reveals that the parliamentary discussion recognizes that the amendment to Article 228 produces consequences that go beyond the strictly criminal field (BRASIL, 2026a).

3.3. The pleas in favour and contrary to legislative proposals

The arguments for hardening can be grouped into three axes. The first is the need for proportional accountability in the face of criminal acts of high severity. The second is the perception of insufficiency of the three-year limit in certain cases, especially when adolescents remain involved in violent practices. The third is concern for public safety and the social sense of impunity.

These arguments are relevant and should not be disregarded. integral protection does not mean protection against every form of accountability. The victim of the infraction is also a rightholder, and the State has a constitutional duty to promote security and protection against violence. The socio-educational system needs to be able to produce effective responses, including in the face of serious acts.

On the other hand, the contrary arguments point out that hardening does not have automatic efficacy. The juvenile system cannot be evaluated only for the duration of confinement. The quality of education, health care, professional training, maintenance of family ties and follow-up after leaving may be more important for the prevention of new infringements than the abstract increase in the period of deprivation.

There is also concern about the negative effects of prolonged institutionalisation. A systematic review published in 2026 on institutional violence in semi-freedom and confinement measures in Brazil identified, from 18 articles, predominance of prison practices and negative psychosocial impacts. The study concludes by the need to strengthen mental health, pedagogical standardization and social reintegration strategies (NEUBUSS; QUAGLIATO, 2026).

At international level, a systematic review published in 2024 on juvenile incarceration summarized evidence regarding health, education, employment and recurrence. Among the results highlighted by the authors is a study according to which provisional juvenile detention was associated with an increase of 33% in recidivism due to serious crimes and 11% in recidivism due to less serious crimes in one year, in addition to a small increase in the risk associated with each additional day of detention. The authors emphasize, however, methodological limitations and the need for more causal research (ACKERMAN; MAGRAM; KENNEDY, 2024).

A systematic review of young serious offenders also found no difference in the recurrence between custody and non-guardian sanctions, nor a clear association between prison duration and recurrence, although the limitation of the available evidence is recognized. The result is particularly relevant for the present study because it prevents the intuitive conclusion that more incarceration time equals less recurrence (ACKERMAN; MAGRAM; KENNEDY, 2024).

4. Effectiveness of proposes in the light of constitution and jury

Evaluating the effectiveness of toughening proposals requires confronting them with the constitutional principles governing the socio-educational system, with the jurisprudence of the superior courts and with the empirical evidence available on recidivism and implementation of socio-educational measures. This section examines, therefore, three complementary dimensions: the compliance of the proposals with the principles of integral protection, absolute priority and the peculiar condition of a developing person; the compatibility with the understandings consolidated in the STF and STJ; and the institutional capacity of the State to perform long-term measures without discharging the socio-educational nature of care.

4.1. The principles of integral protection, absolute priority and the peculiar condition of a developing person

integral protection functions as a parameter of interpretation of the entire socio-educational system. It does not eliminate the adolescent's responsibility, but prevents the state response from ignoring its fundamental rights. The absolute priority, in turn, requires public policies of childhood and youth to receive treatment compatible with the constitutional centrality of the matter.

The peculiar condition of a developing person is especially important when discussing deprivation of freedom. Adolescence is a period of formation of identity, construction of bonds, schooling and preparation for adult life. State intervention must recognise these characteristics. This does not mean denying the ability to understand the unlawfulness of certain conduct; it means considering that accountability must have a purpose other than that attributed to the criminal penalty applied to the adult.

The principle of brevity should not be understood only as a legislative choice over the number of years. He expresses the idea that the deprivation of adolescent freedom should last the minimum necessary for the legitimate purpose of the measure. Exceptionality requires confinement not to be used as an automatic response. The periodic reassessment ensures that the need for the measure is examined during implementation.

The extension of the maximum deadline to five or ten years, therefore, would profoundly change the intensity of the socio-educational response. Even if the ceiling does not imply automatic compliance with the period, the increase alters the available time space for deprivation. Constitutional compatibility would depend not only on the drafting of the law, but

on its interpretation and execution, individualization and preservation of fundamental guarantees, in strict compliance with the principles of brevity, exceptionality and respect for the peculiar condition of a developing person (BRASIL, 1990; BRASIL, 2012; UNITED NATIONS, 2019).

The principle of proportionality should also be applied. The measure must be appropriate, necessary and balanced in relation to the purpose pursued. If the stated purpose is to reduce reiteration, the measure must demonstrate a rational relationship with this objective. If there are less serious alternatives with equal or greater prevention capacity, the indiscriminate expansion of deprivation of freedom loses strength as a public policy.

4.2. The case law of the STF and STJ on socio-educational measures

The jurisprudence of the higher courts shows that the socio-educational system is governed by its own guarantees. The STJ, as seen, recognizes the three-year limit as the central legal parameter of the current confinement. It also states the need for periodic reassessment and the exceptionality of the measure.

In this sense, the STJ consolidated the understanding that, applied socio-educational measure without final term, it should be considered the maximum period of three years of the length of the confinement measure to calculate the prescribed period of socio-educational claim. This understanding was established on the basis of the Summary No. 338 of the STJ (STJ, 2012a), which recognizes the applicability of criminal prescription to socio-educational measures, and the judgment of the AgRg in REsp no. 1.856.028/SC (STJ, 2020a), Rel. Min. Reynaldo Soares da Fonseca, Quinta Turma, DJe 19 May 2020, published in the Information on Jurisprudence No. 672 of STJ.

In 2022, the STJ also decided that the period of medical treatment due to mental illness should be counted within the maximum period of three years of the confinement measure, relating the interpretation to the principles of mitigated punishment, brevity, minimum intervention and non-discrimination. This understanding was established in the judgment of the repetitive resources of the Theme 992 of the STJ, published in the Jurisprudence Information No. 732 of the STJ (STJ, 2022), in accordance with article 121, § 3 of the ECA.

Additionally, the Summary No. 492 of the STJ (STJ, 2012b) states that "the infractional act analogous to drug trafficking alone does not necessarily lead to the imposition of socio-educational measure of confinement of adolescents", reaffirming that the abstract gravity of the infractional act is not enough to justify the private measure of freedom.

In its most recent systematized jurisprudence, the STJ recognizes that the concrete gravity of the infraction can justify confinement. This understanding is relevant because it prevents false opposition between integral protection and accountability. integral protection admits severe responses when the legal requirements are met, but does not allow abstract gravity to be used to dispense with individualized analysis.

The thesis was systematized in issue 263 of Jurisprudence in Theses of the STJ (STJ, 2025), published in July 2025, which records the following understanding: "The concrete gravity of the infraction justifies the imposition of the socio-educational measure of confinement" (art. 122, I, ECA). The judged paradigm is AgRg in HC no. 995,636/BA (STJ, 2025a), Rel. Min. Reynaldo Soares da Fonseca, Quinta Classa, DJe 28 May 2025. The same edition also states that "the infraction of adolescents does not necessarily impose the establishment of the socio-educational measure of confinement" (art. 122, II, ECA), reaffirming the need for individualized analysis.

The Supreme Court, in turn, has recognized the need to respect the guarantees of adolescents submitted to the socio-educational system. The debate on overcrowding and conditions of confinement also reveals that deprivation of freedom cannot be carried out under conditions incompatible with fundamental rights. The constitutional discussion therefore reaches both the possibility of applying the measure and the concrete conditions of its implementation.

The most relevant precedent is HC 143.988/ES (STF, 2020), Habeas Corpus Collective filed by the Public Defender of Espírito Santo in favor of adolescents deprived of freedom in the socio-educational unit of Linhares/ES. Unanimously, the Second Class of the STF, on August 24, 2020, granted the order to determine that the units for implementing socio-educational measures of confinement throughout the country do not exceed their projected capacity, setting criteria to avoid overcrowding, including transfer, home confinement and reassessment of cases in which there has not been violence. Minister Edson Fachin, rapporteur of the case, recognized the violation of fundamental rights of adolescents hospitalized for structural deficiencies and lack of vacancies, and stressed that "the educational process of socio-education of adolescents and young people should have absolute priority".

Additionally, the STF judged ADPF no. 347 (STF, 2023), on October 4, 2023, in which it recognized the unconstitutional state of the Brazilian prison system. Although ADPF 347 dealt primarily with the adult prison system, its fundamentals, with regard to the massive violation of fundamental rights of persons deprived of liberty and the responsibility of the State for ensuring conditions worthy of imprisonment, were evoked in debates and subsequent

decisions on the socio-educational system, especially regarding the conditions of execution of the confinement measures.

The recognition of fundamental rights of adolescents deprived of liberty is incompatible with the idea that confinement works as a space of simple neutralization. The State assumes increased responsibility when it withdraws the freedom of a developing person. The longer the deprivation time, the greater the demand for control, quality of care, individualization and effective preparation for the return to society.

4.3. Is the increase in confinement and the reduction in criminal age effective measures to combat recurrence?

The central question of this article requires a distinction between data of infractional trajectory and proof of causality. The National Survey of SINASE 2024 presents relevant information: among 12.506 adolescents linked to measures of restriction and deprivation of liberty in the analyzed period, 69.2% were in first association and 23.8% had previous ties to another socio-educational measure, with 7.0% without information. Among the adolescents in hospital, 66.7% were in the first relationship and 25.8% had a previous relationship (BRASIL, 2024).

These figures show that a significant proportion of adolescents had previously passed through the system, but also demonstrate that most adolescents in confinement, in that section, were in their first relationship. The report highlights that the construction of historical series will be necessary to evaluate the effectiveness and effectiveness of socio-educational policy. Therefore, the data does not allow us to conclude that confinement is the cause of repetition or that the increase in its duration would reduce it.

Another relevant point is the distinction between recidivism in the legal and criminal sense and infractional reiteration. SINASE itself uses different concepts and recognizes standardization difficulties. For this study, the terms are used according to the methodology of each source. When it comes to reducing recurrence as an objective of public policies, one should avoid the false precision of treating all indicators as equivalent.

Brazilian scientific production reinforces the need for caution. A study published in 2026 on graduates from social and educational units of Grande Vitória, in Espírito Santo, accompanied 1,482 adolescents and young people who had completed confinement between 2016 and 2021. The study identified that 70% maintained a posterior institutional trajectory, due to re-entry into the socio-educational system, entry into the prison system or death. Among

the cases analyzed, 62% were related to the reentry or repetition of infractions. The study does not show that the length of confinement caused these results, but shows the difficulty of breaking institutional trajectories after compliance with the measure (IACK, 2026).

The research by Iack (2026) shows that the analysis of effectiveness cannot end on the day the adolescent leaves the unit. Socio-educational policy must also be examined in its post-measured phase. If the graduates quickly return to the socio-educational system or enter the prison system, the evaluation of efficacy needs to consider the factors that contributed to this trajectory.

International evidence also does not support a simple relationship between longer duration and shorter recurrence. The systematic review by Ackerman, Magram and Kennedy (2024) identified results that point to adverse consequences of juvenile detention and highlighted a study that found an increase in recurrence associated with provisional detention. The meta-analysis of young serious offenders, in turn, found no consistent association between prison duration and recurrence. Together, these studies suggest that duration alone is not a reliable indicator of effectiveness.

This does not mean that confinement is always ineffective. It would be equally incorrect. The legal system itself admits that, given certain serious acts and concrete circumstances, confinement is necessary. The question is different: there is not enough basis to transform the general expansion of maximum time into a synonym of recurrence prevention.

The reduction of criminal age faces a similar problem. To demonstrate that PEC 32/2015 would reduce juvenile crime, it would be necessary to show that the transfer of adolescents aged sixteen and seventeen years to the adult criminal system would produce less reiteration or less crime. The analyzed materials do not offer this causal link. The amendment of the accountability regime alone does not demonstrate the result of the intended public policy.

Moreover, change could have indirect effects. The submission of adolescents to the adult prison system can increase exposure to criminogenic environments, weaken family and educational ties and hinder social reintegration. These risks do not automatically make it possible to state that the PEC would produce an increase in crime, but justify the demand for evidence before supporting its effectiveness as a security policy.

UNICEF, by manifesting itself in 2026 on the advancement of the PEC no 32/2015, stated that the reduction of the criminal age is not a solution for reducing violence and defended the strengthening of the implementation of the socio-educational system, with education, social assistance, improvement of units and projects capable of promoting reintegration. The body also pointed to a reduction of more than 35% in the number of adolescents in conflict with the

law seized by the police between 2019 and 2024, according to the Brazilian Yearbook on Public Safety (UNICEF, 2026).

The methodological conclusion, therefore, should be prudent. Existing data allow us to identify the dimension of the phenomenon and factors associated with the infractional trajectory, but do not allow us to state that the simple increase in custodial placement or the reduction in the penal age cause a decrease in recurrence. To demonstrate efficacy, a research design capable of comparing similar groups would be necessary, controlling confounding factors and monitoring results for a sufficient period. There was no robust evidence of this type in the analyzed sources to confirm the superiority of the proposals.

4.4. The institutional capacity of the state to implement long-term socio-educational measures

The discussion on the effectiveness of the Bill no. 1,473/2025 cannot be restricted to the question about the convenience or constitutionality of the increase in the length of custodial placement. The proposed amendment also produces a problem of enforceability: how can the State comply with a private measure of freedom that, in certain circumstances, can reach ten years, while preserving the security of servants, socio-educational workers and third parties and the social-educational purpose of the system itself?

In the State of Espírito Santo, this question can be examined from the comparison between the security model adopted by the Instituto de Atendimento Socioedutivo do Espírito Santo (IASES) and that structured by the State Department of Justice (SEJUS) and the Espírito Santo Penal Police (PPES). The comparison should not be based on the premise that the socio-educational system is devoid of security instruments. IASES has its own regulations on firearms, nonlethal technologies, handcuffs, training, crisis management and other procedures. The relevant point is that these instruments are inserted in an institutional logic different from that of prison security.

In the framework of IASES, the Service Instruction No. 0128 of 26 February 2026 establishes guidelines for the use of Non-lethal Technologies. The norm submits the use of force to the principles of legality, necessity, adequacy, proportionality, moderation and harm prevention, in addition to establishing the subsidiary character of force in relation to mediation and dialogue. Therefore, the existence of NNL does not mean the adoption of a permanent force logic, but the existence of regulated mechanisms for situations where its use is legally and technically necessary.

There is also, in IASES, the Service Instruction No. 0419 of December 8, 2022, which regulates procedures related to the size and caution of firearms by socio-educational agents. However, this regulation does not authorize the conclusion that the socio-educational system uses firearms as an ordinary instrument of internal security of the units or their escorts. The existence of a standard on size and caution should be distinguished from the daily operational safety model of socio-educational units, which has its own protocols and different purpose of police-penal activity. The institutional documentation itself highlights the concern to restrict the presence and use of weapons in the socio-educational environment, except for legally authorized hypotheses.

This distinction is especially important because the reality of the Criminal Police is structured from another institutional purpose. The Joint Ordinance SEJUS/PPES no 7-R, of November 4, 2025, establishes as mandatory, in the operations of escort and transport of persons deprived of liberty, equipment such as institutional ballistic vest, weaponry of the institution, handcuffs and other protective equipment necessary for the mission. The standard reveals a prison security model in which custody police activity and operational protection directly integrate the execution of escorts.

This comparison does not mean that the socio-educational system should receive exactly the same equipment or adopt the same methodology as the Criminal Police. On the contrary, the difference between the two models is legally relevant. While the Criminal Police performs a public security function related to the custody of persons deprived of liberty in the prison system, the socio-educational system must execute the measure aimed at the responsibility of the adolescent, without abandoning its pedagogical, protective and social reintegration purpose.

The issue becomes more complex in view of the current text of the PL no 1.473/2025. The version in progress in the House of Representatives provides for a maximum period of five years as a rule and up to ten years when the infraction involves violence or serious threat to the person or is analogous to heinous or equated crime. The project also provides that those who reach the age during the fulfillment of the measure are transferred to a specific unit, separated from other adolescents and distinct from prisons for adults, ensuring the continuity of socio-educational actions and the preservation of their physical and psychological integrity. It also provides, where possible, for the organization of compliance by age groups.

The prediction of a specific unit for those who reach age represents an attempt to respond to the transition between adolescence and adulthood, but does not eliminate the structural question. Currently, confinement has a maximum of three years and socio-educational legislation works with compulsory release at 21 years. With the extension of the deadline, the

State would have to manage a population that may remain in the system for several years after reaching age, a circumstance that requires its own structure and specific planning.

This gap becomes even more evident when considering a concrete hypothesis. If the offence was committed at the age of 17, but the fulfillment of the measure begins at the age of 20, a measure fixed for the maximum period of ten years could, in theory, project its termination for the age of 30. This does not mean that the LP expressly establishes confinement up to 30 years, because the proposal does not use this age as a limit. It is a hypothesis of temporal consequence that needs to be considered by the State when assessing the ability to implement the measure.

This possibility produces a question that goes beyond the simple legislative amendment: what is the nature of the unit responsible for guarding a person who initiated the implementation of the measure as a young person, but can it remain in the system until adulthood? If the unit remains socio-educational, should it retain the pedagogical purpose and the rights of socio-educational execution? If, on the other hand, predominantly penitentiary methodologies are incorporated because of the aging of the population, is there a risk of mischaracterization of the socio-educational measure itself?

The answer cannot simply consist of reproducing the methodology used by the Criminal Police. The two systems have different legal foundations and institutional purposes. The solution should consider a socio-educational security capable of dealing with adults without automatically transforming the socio-educational unit into a prison. This requires that any legislative change be accompanied by detailed administrative regulation, risk assessment, specific protocols and clear definition of institutional responsibilities.

Another fundamental aspect is the physical capacity of the system. The increase in the maximum period from three to up to ten years does not just mean that certain individuals will remain hospitalized longer. The change can reduce the turnover of vacancies and consequently increase the need for installed capacity. Thus, before the implementation of the measure, the State would need to evaluate the amount of vacancies, the projected demand, the capacity of each unit, the need for expansion or construction of establishments and the possibility of creating specific spaces for different age groups. (NATIONAL ADVICE IN JUSTICE, 2019).

It is not, therefore, a question of assuming that the PL necessarily requires a certain number of new units, as this conclusion would depend on demographic, statistical and budgetary studies that are not defined in the legislative text. What can be said is that a substantial increase in the length of stay creates the need for impact assessment on the installed

capacity. Without such an assessment, the change in the legal limit risks producing a state obligation without prior demonstration of sufficient material conditions to implement it.

The same concern applies to human resources. The prolonged permanence of people in the units requires servers in quantity compatible with the population attended, continuing education and protocols appropriate to the different risk situations. The IASES already has specific training standards, crisis management, handcuffs, TNL, journal, displacement and risk gradation. However, the existence of these instruments does not in itself demonstrate that the current effective, training and infrastructure are sufficient for a possible change in scale and age profile of the population attended.

The issue of equipment also needs to be analyzed in a systemic way. Institutional security is not limited to the presence of a firearm or TNL. It involves protective equipment, communication, monitoring, access control, crisis procedures, employee training, health care, escort protocols and mechanisms to monitor the use of force. Thus, any extension of the confinement period would require the State to verify whether the available resources accompany the increased operational risk and the duration of custody.

The comparison with SEJUS/PPES demonstrates precisely this difference. Joint Ordinance No 7-R/2025 assumes that escort operations of persons deprived of liberty require specific protective and security equipment, including institutional armament and ballistic vest. In IASES, safety is also necessary, but it is subject to the logic of social-educational care and proportional employment of force. The issue, therefore, is not to choose between "security" and "social education", but to establish a model capable of ensuring both dimensions simultaneously.

Another relevant point is the protection of the socio-educational agents themselves. integral protection does not mean disregarding the safety of those working in the units. Servers submitted to risk situations need to have adequate working conditions, training, equipment and protocols. If the population attended comes to include adults for much longer periods, any increase in the complexity of occurrences cannot be transferred individually to the server. This is institutional responsibility of the State.

Thus, according to the arguments presented, the implementation of the PL should be preceded or accompanied by public planning that contemplated, at least, the diagnosis of installed capacity, demand projection, staff design, continuing education, equipment adequacy, review of safety protocols, risk classification, definition of units for young adults, organization by age groups and estimate of budget impact. Without such measures, the change in the length

of custodial placement could produce a distance between what the law determines and what the State can effectively execute.

There is therefore a dimension of effectiveness that is often forgotten in the debate on the hardening of socio-educational measures. A measure may be legally foreseen, but its concrete effectiveness depends on the administrative capacity to execute it in a safe, individualised and compatible manner with its objectives. The simple extension of the deadline does not in itself create new vacancies, servers, equipment, units or socio-educational programs.

In the case of PL No 1.473/2025, this question is particularly relevant because the proposal changes not only the time of deprivation of liberty, but also the potential age profile of the population subjected to the measure. The creation of specific units for older adults is an advance in relation to the simple permanence of these individuals with adolescents, but still demands answers about the amount of units, location, capacity, security, human resources, funding, pedagogical methodology and articulation with policies of education, health, professionalization and social reintegration.

In summary, the implementation of any increase in confinement could not be treated as a mere automatic consequence of the approval of the law. The State would have to structure a transition policy capable of reconciling three requirements: the protection of society and servants, the security of socio-educational people themselves and the preservation of the socio-educational nature of the measure. The indiscriminate adoption of prison methods could solve part of the custody problems, but it would produce another problem: the approximation between the socio-educational measure and the deprivation of freedom for adults.

For this reason, the lack of sufficient detail on implementation should integrate the critical evaluation of the proposal. It cannot be concluded, only by changing the legal deadline, that the system will be able to absorb significantly longer periods of confinement. The effectiveness of the PL will depend on material and institutional conditions that need to be demonstrated by the government. Without them, the increase in length of stay may represent more a formal expansion of the state response than a policy that is proven to be capable of reducing the infractional repetition.

Comparative table: IASES and SEJUS/PPES

Source: own development, based on the official standards of IASES and SEJUS/PPES consulted, especially IS No 0419/2022, IS No 0128/2026 and Joint Ordinance SEJUS/PPES No 7-R/2025.

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Aspect	IASES Social and educational system	SEJUS/PPES Penitentiary system
Institutional purpose	Implementation of socio-educational measures, with accountability, protection and pedagogical purpose.	Custody and security of persons deprived of liberty in the prison system under prison policy.
Safety model	It has its own protocols of security, risk management, crisis, handcuffs and non-lethal technologies, linked to socio-educational logic.	Police-penal model of custody, with its own public safety structure and escort protocols.
Firearms	There is proper regulation on size and caution by socio-educational agents; this is not equivalent to the adoption of firearms as an ordinary instrument of internal security of units or socio-educational escorts.	In Joint Ordinance No 7-R/2025, institutional armament integrates the mandatory equipment of escort and transport operations.
TNL (non-lethal technologies) and use of force	IS no 0128/2026 regulates TNL and submits the use of force to legality, necessity, adequacy, proportionality, moderation and damage prevention.	The standard of escort consulted emphasizes institutional armament, ballistic vest, handcuffs and other PPE according to the mission.
Public and seniority	The proposal provides a specific and separate unit for those who reach age during the measure, distinct from the adult prison establishment.	It serves adult population deprived of freedom under prison regime.
Challenge facing the PL	Adapt capacity, effectiveness, equipment, infrastructure and methodology for longer stays and youth-adult population, without discharacterizing socioeducation.	It has an institutional structure already directed to adult custody and criminal police activity.

5. Final considerations

The present study analyzed whether the extension of the maximum time of socio-educational confinement measures (PL no. 1,473/2025), together with the reduction of the criminal age (PEC no. 32/2015), is an effective instrument to combat recurrence or is an affront to the constitutional principles of integral protection and absolute priority.

The legal system has shown that adolescents in conflict with the law are already subject to a system of self-responsibility. The ECA does not establish impunity, but disciplines measures that vary from warning to confinement, the latter submitted to the principles of brevity, exceptionality and respect for the peculiar condition of a developing person.

The PL no 1.473/2025 aims to raise the confinement limit from three to five years, and may reach ten in cases of severe violence or act analogous to heinous crime. This is, however, a proposal under way, not an existing law. The PEC no 32/2015, in turn, intends to establish the penal age at sixteen years, but the matter remains the object of institutional discussion, and it is not appropriate to present it as a consummated fact.

As for effectiveness, the data did not support the hypothesis that the simple increase in the length of confinement reduces the infractional repetition. The National Survey of SINASE

2024 found that 23.8% of adolescents linked to measures of restriction and deprivation of liberty had previous ties to another measure, without establishing a causal relationship between duration and repetition. The research in Grande Vitória (Iack, 2026), with 1,482 graduates, identified that 70% maintained a later institutional trajectory, showing that the problem is not solved only by the length of stay. The international literature did not show consistent evidence that longer duration of deprivation of liberty produces less recurrence, and there are studies that associate confinement with a higher risk of repetition.

The answer to the research problem was predominantly negative regarding the automatic efficacy of the proposals. Hardening can produce restraint in specific cases, but there is insufficient evidence that, as a general policy, the increase in length of custodial placement and the reduction of criminal age are proven effective instruments.

At the constitutional level, integral protection does not prevent accountability, but requires it to remain compatible with the peculiar condition of development. The legislative extension must be subject to the criteria of proportionality, exceptionality, individualisation and preservation of fundamental rights.

The research pointed to the need to strengthen the effectiveness of the existing system, through education, professionalization, mental health, family care, post-measured follow-up and pedagogical quality of execution, as central components of prevention to repetition.

In operational terms, the extension of the deadline shall not be dissociated from the execution capacity. The implementation would require specific state planning: diagnosis of vacancies, demand projection, server design, infrastructure and budget resources. The comparison with the Criminal Police does not authorize the importation of the prison methodology; the challenge is to develop a socio-educational security that protects all involved without turning the measure into mere reproduction of the prison system.

It is concluded that facing juvenile crime should not be guided by the simple association between greater severity and greater security. As long as there is no robust evidence that the increase in length of stay or the reduction in criminal age produces social reintegration and reduction of recurrence, the adoption of these measures as a central solution remains legally controversial and empirically unproven.

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