

Adoption Law of the PRC

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Chapter I — General Provisions

Article 1 — This Law is enacted for the purpose of protecting legitimate adoptive relationships and safeguarding the rights of the parties involved in adoptive relationships.

Article 2 — Adoption shall be conducive to the upbringing and growth of adopted minors, shall comply with the principle of equality and free will, and shall not violate social morality.

Article 3 — Adoption shall not contravene the laws and regulations on family planning.

Chapter II — Establishment of Adoptive Relationships

Article 4 — The following minors under the age of 14 may be adopted: (1) orphans bereft of parents; (2) abandoned infants or children whose biological parents cannot be identified or found; or (3) children whose

biological parents are unable to rear them due to unusual difficulties.

Article 5 — The following citizens or organizations shall be entitled to place out children for adoption: (1) guardians of orphans; (2) social welfare institutions; or (3) biological parents unable to rear their children due to unusual difficulties.

Article 6 — An adopter shall simultaneously meet the following conditions: (1) be childless; (2) be capable of rearing and educating the adoptee; (3) be free from any disease that is medically deemed unfit for adopting a child; (4) have reached the age of 30; and (5) be at least 40 years older than the adoptee where a person with no spouse adopts a child of the opposite sex.

Article 7 — Where a person adopts a child belonging to a collateral relative of the same generation and of the same bloodline, the restrictions of Article 4, Item (3); Article 5, Item (3); and Article 6, Items (1) and (5) of this Law may be waived. Where an overseas Chinese adopts a child belonging to a collateral relative of the same generation and of the same bloodline, the restriction of Article 6, Item (2) of this Law may also be waived.

Article 8 — An adopter may adopt one child only, except for adopting orphans, abandoned infants or children, or children in social welfare institutions, for whom the restriction on the number of adoptions may be waived.

Article 9 — Where a person with no spouse adopts a child, the adopter and the adoptee shall be of different sexes, and the adopter shall be at least 40 years older than the adoptee.

Article 10 — The adoption of a child and the placement of a child for adoption shall both be based on mutual consent. Where a minor is to be adopted and reaches the age of 10, his or her consent shall be obtained.

Article 11 — Where the biological parents are both unable to rear their child due to unusual difficulties and either of them is without capacity for civil conduct, the child may be placed out for adoption only when it may cause serious harm to the child not to do so. The guardian of an orphan may place the orphan out for adoption only with the consent of the person with the obligation to support the orphan. Where the person with the obligation to support the orphan does not consent to the adoption, and the guardian is unwilling to continue performing guardianship duties, the guardian shall be replaced in accordance with the General Principles of the Civil Law.

Article 12 — Where a stepfather or stepmother adopts a stepchild with the consent of the child's biological parents, the restrictions of Articles 4, 5, and 6 of this Law may be waived.

Article 13 — An adopter and a person placing out a child for adoption shall conclude an adoption agreement in writing. Where either party or both parties request notarization of the adoption, the adoption shall be notarized.

Article 14 — The adoption shall be registered with the civil affairs department of the people's government at or above the county level. The adoptive relationship shall be established on the date of registration. The public security organ shall, in accordance with the relevant provisions of the state, process household registration for the adoptee.

Article 15 — Where an abandoned infant or child whose biological parents cannot be identified or found is to be adopted, the civil affairs department handling the registration shall make an announcement to that effect prior to registration. Where an abandoned infant or child is adopted, the civil affairs department handling the registration shall, prior to registration, make a public announcement to seek the child's biological parents or other guardians. If no claim is made within 60 days of the announcement, the abandoned infant or child may be adopted.

Chapter III — Validity of Adoption

Article 16 — As of the date the adoptive relationship is established, the provisions of the law on the relationship between parents and children shall apply to the rights and obligations of the adoptive parents and the adopted child; the provisions of the law on the relationship between children and the close relatives of their parents shall apply to the rights and obligations of the adopted child and the close relatives of the adoptive parents. The rights and obligations of the adopted child and his or her biological parents and other close relatives shall be terminated upon the establishment of the adoptive relationship.

Article 17 — An adopted child may take the surname of the adoptive father or the adoptive mother, or may retain the original surname upon consent of all the parties concerned.

Article 18 — An adoption that is in violation of the provisions of the General Principles of the Civil Law and of this Law shall be void from the very beginning. An adoption that has been voided shall not be legally binding from the very beginning.

Chapter IV — Dissolution of Adoptive Relationships

Article 19 — The adoptive parents and the adopted child may not dissolve the adoptive relationship before the adopted child reaches the age of majority, except where the adoptive parents and the person who placed the child out for adoption agree to dissolve the adoptive relationship. Where the adopted child reaches the age of 10 or more, the consent of the adopted child shall be obtained. Where the adoptive parents fail to perform the obligation to rear and educate the adopted child or commit acts of maltreatment or abandonment of the adopted child, the person who placed the child out for adoption may request dissolution of the adoptive relationship. Where the adoptive parents and the person who placed the child out for adoption fail to reach an agreement on the dissolution of the adoptive relationship, a lawsuit may be brought in a people's court.

Article 20 — Where the relationship between the adoptive parents and an adopted child who has reached the age of majority deteriorates to such a degree that they cannot live together, the adoptive relationship may be dissolved by agreement. Where no agreement is reached, a lawsuit may be brought in a people's court.

Article 21 — Where the parties concerned agree to dissolve the adoptive relationship, they shall register the dissolution with the civil affairs department. Where the adoptive relationship is dissolved by agreement, the adoptive parents and the adopted child who has reached the age of majority shall sign a written dissolution agreement. Where either party or both parties request notarization, the dissolution shall be notarized.

Article 22 — Upon dissolution of an adoptive relationship, the rights and obligations between the adopted child and the adoptive parents and their close relatives shall be terminated, and the rights and obligations between the adopted child and his or her biological parents and their close relatives shall be restored automatically, except where the adopted child has reached the age of majority and his or her biological parents expressly declare that they do not wish to restore the relationship. Where an adoptive relationship is dissolved, the adoptive parents who have reared the adopted child may request the biological parents of the adopted child to appropriately compensate for the living and education expenses paid during the period of adoption, except where the adoptive relationship is dissolved due to maltreatment or abandonment of the adopted child by the adoptive parents. Where the biological parents of an adopted child request the dissolution of the adoptive relationship, the adoptive parents may request appropriate compensation for the living and education expenses paid during the period of adoption. Where an adoptive relationship is dissolved, the adoptive parents who lack the ability to work and have no source of income may request the adopted child who has been reared and has reached the age of majority to provide living expenses.

Chapter V — Legal Liability

Article 23 — Where anyone, by abducting or trafficking a child, placing a child out for adoption in violation of this Law, or taking advantage of adoption, commits an act of abandoning, maltreating, or infringing upon the rights and interests of a minor child, the relevant department shall impose penalties in accordance with the law; if a crime is constituted, criminal liability shall be pursued in accordance with the law.

Article 24 — Where anyone sells a child under the guise of placing the child out for adoption, criminal liability shall be pursued in accordance with the law. Where anyone abandons an infant or a child, the public security organ shall impose a fine; if a crime is constituted, criminal liability shall be pursued in accordance with the law. Where the person who placed a child out for adoption commits any of the acts listed in the preceding two paragraphs, the civil affairs department may revoke the registration of placement for adoption.

Chapter VI — Supplementary Provisions

Article 25 — The people's congresses and their standing committees of ethnic autonomous areas may, in accordance with the principles of this Law and in light of the special local conditions, formulate flexible or supplementary provisions. The provisions formulated by autonomous regions shall be submitted to the Standing Committee of the National People's Congress for the record. The provisions formulated by autonomous prefectures and autonomous counties shall be submitted to the standing committee of the people's congress of the province or autonomous region for approval and shall then be submitted to the Standing Committee of the National People's Congress for the record.

Article 26 — This Law shall enter into force on April 1, 1992. The amendment to this Law shall enter into force on April 1, 1999.

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