

Civil Code of the PRC — Book V: Marriage and Family

Dan Young Business Consultancy — www.danyoungcpa.com
Unofficial English translation prepared for reference only. The official Chinese text prevails.

Contents

Table of Contents	1
Chapter I — General Provisions	1
Chapter II — Marriage	2
Chapter III — Family Relations	3
Section 1 — Spousal Relations	3
Section 2 — Relations between Parents and Children and among Other Close Relatives	4
Chapter IV — Divorce	5
Chapter V — Adoption	7
Section 1 — Establishment of the Adoptive Relationship	7
Section 2 — Effect of Adoption	8
Section 3 — Dissolution of the Adoptive Relationship	8

Adopted at the Third Session of the Thirteenth National People's Congress on May 28, 2020
Effective: January 1, 2021

Table of Contents

- Chapter I — General Provisions
- Chapter II — Marriage
- Chapter III — Family Relations
- Chapter IV — Divorce
- Chapter V — Adoption

Chapter I — General Provisions

Article 1040 — This Book regulates the civil relations arising from marriage and family.

Article 1041 — Marriage and the family are protected by the state. A marriage system based on freedom of marriage, monogamy, and equality between men and women shall be practiced. The lawful rights and interests of women, minors, the elderly, and the disabled shall be protected.

Article 1042 — Arranged marriages, mercenary marriages, and any other acts interfering with the freedom of marriage shall be prohibited. The exaction of money or property in connection with marriage shall be prohibited. Bigamy shall be prohibited. Cohabitation by a married person with any other person shall be prohibited. Domestic violence shall be prohibited. Maltreatment or desertion of family members shall be prohibited.

Article 1043 — Families shall establish good family values, promote family virtues, and attach importance to the cultivation of family culture. Spouses shall be faithful to each other, respect each other, and care for each other. Family members shall respect the elderly, take care of the young, help each other, and maintain equal, harmonious, and civilized marriage and family relations.

Article 1044 — Adoption shall be in the best interests of the adopted minor and shall protect the lawful rights and interests of the adopter and the adoptee. The sale of children under the guise of adoption shall be prohibited.

Article 1045 — Relatives include spouses, blood relatives, and relatives by marriage. Spouses, parents, children, siblings, paternal and maternal grandparents, and paternal and maternal grandchildren are close relatives. Close relatives such as spouses, parents, and children living together shall be family members.

Chapter II — Marriage

Article 1046 — Marriage shall be based on the complete willingness of both the man and the woman. Neither party may coerce the other party, and no organization or individual may interfere with the freedom of marriage.

Article 1047 — The marriageable age shall be 22 years of age for a man and 20 years of age for a woman.

Article 1048 — Marriage between lineal blood relatives or between collateral blood relatives within three generations shall be prohibited.

Article 1049 — Both the man and the woman intending to marry shall apply for registration of marriage in person at the marriage registration authority. Where the proposed marriage meets the provisions of this Law, the marriage shall be registered and a marriage certificate shall be issued. The marriage relationship shall be established upon the completion of the marriage registration. Where the marriage has not been registered, the parties shall complete the registration.

Article 1050 — After marriage registration, the woman may become a member of the man's family, or the man may become a member of the woman's family, according to the agreement between the parties.

Article 1051 — A marriage shall be void under any of the following circumstances:

- (1) bigamy;
- (2) marriage between relatives prohibited from marrying each other; or
- (3) one of the parties has not yet reached the statutory marriageable age.

Article 1052 — Where a marriage is entered into as a result of coercion, the coerced party may apply to a people's court for annulment of the marriage. Such application shall be made within one year from the date on which the coercion ceases. Where the coerced party whose personal freedom is illegally restricted applies for annulment of the marriage, such application shall be made within one year from the date on which his or her personal freedom is restored.

Article 1053 — Where one party suffers from a serious illness, he or she shall truthfully inform the other party before marriage registration. Where the other party is not informed truthfully, the other party may apply to a people's court for annulment of the marriage. The application for annulment of the marriage shall be made within one year from the date on which the other party knew or should have known of the reason for annulment.

Article 1054 — A void or annulled marriage shall have no legal effect ab initio, and neither party shall have the rights or duties of a spouse. Any property acquired during the period of cohabitation shall be disposed of by agreement between the parties. Where no agreement can be reached, the people's court shall make a judgment based on the principle of taking care of the party who is not at fault. Disposition of property in the

case of a void marriage caused by bigamy shall not infringe upon the property rights and interests of the lawful spouse. The provisions of this Law on parents and children shall apply to the children born from a void or annulled marriage. Where a marriage is void or annulled, the party who is not at fault shall have the right to claim damages.

Chapter III — Family Relations

Section 1 — Spousal Relations

Article 1055 — Husband and wife shall have equal status in marriage and the family.

Article 1056 — Both husband and wife shall have the right to use their respective names.

Article 1057 — Both husband and wife shall have the freedom to engage in work, study, and social activities, and neither party may restrict or interfere with the other party in this regard.

Article 1058 — Husband and wife shall have the equal right and duty to raise, educate, and protect their minor children, and to jointly bear the expenses for raising, educating, and protecting their minor children.

Article 1059 — Husband and wife shall have the duty to support each other. Where one party fails to perform the duty of support, the party in need of support shall have the right to demand payment of support from the other party.

Article 1060 — A civil legal act performed by one spouse for the needs of the daily life of the family shall be binding on both spouses, unless otherwise agreed between the spouses and the other party to the act. Restrictions agreed upon between the spouses on the scope of civil legal acts that one spouse may perform shall not be asserted against a counterparty acting in good faith.

Article 1061 — Husband and wife shall have the right to inherit each other's property.

Article 1062 — The following property acquired by the spouses during the existence of the marriage relationship shall be the community property of the spouses and shall be owned jointly by both spouses:

- (1) wages, bonuses, and remuneration for labor services;
- (2) proceeds from production, business operations, and investment;
- (3) proceeds from intellectual property rights;
- (4) property acquired through inheritance or donation, except as otherwise provided for in Article 1063, paragraph 3 of this Law; and
- (5) other property that shall be jointly owned.

Husband and wife shall have equal rights in the disposal of the community property.

Article 1063 — The following property shall be the separate property of one spouse:

- (1) the property owned by one spouse before marriage;
- (2) compensation for personal injury, or personal disability compensation received by one spouse;
- (3) property designated in a will or a gift contract as belonging to only one spouse;
- (4) articles of daily use exclusively used by one spouse; and
- (5) other property that shall belong to one spouse.

Article 1064 — Debts incurred by both spouses through their joint expression of intent, such as debts incurred by both spouses jointly signing a contract, and debts incurred by one spouse during the existence of the marriage for the daily needs of the family, shall be the joint debts of the spouses. Debts incurred by one spouse during the existence of the marriage in his or her own name that exceed the needs of the daily life of

the family shall not be the joint debts of the spouses, unless the creditor can prove that the debt was used for the spouses' common livelihood, common production and business operations, or was based on the common expression of intent of both spouses.

Article 1065 — A man and a woman may agree that the property acquired during the existence of the marriage and the pre-marital property shall be owned by each of them separately, jointly, or partly separately and partly jointly. Such agreement shall be in writing. Where there is no such agreement or the agreement is unclear, the provisions of Articles 1062 and 1063 of this Law shall apply. The agreement on the property acquired during the existence of the marriage and the pre-marital property shall be legally binding on both parties. Where the spouses agree that the property acquired during the existence of the marriage shall be owned separately, the debts owed by one spouse to a third party shall be paid off from the separate property of the spouse who owes the debts, provided that the third party is aware of such agreement.

Article 1066 — During the existence of the marriage, either spouse may apply to a people's court for the division of the community property under any of the following circumstances:

(1) where one spouse commits acts that seriously harm the interests of the community property, such as concealing, transferring, selling, destroying, or wasting the community property, or creating false joint debts; or

(2) where one spouse who bears the statutory duty of supporting a person who suffers from a serious illness needs medical treatment and the other spouse refuses to pay the relevant medical expenses.

Section 2 — Relations between Parents and Children and among Other Close Relatives

Article 1067 — Where parents fail to perform the duty of support, minor children or adult children who cannot live independently shall have the right to demand payment of support from their parents. Where adult children fail to perform the duty of support, parents who are unable to work or are in financial hardship shall have the right to demand payment of support from their adult children.

Article 1068 — Parents shall have the right and duty to educate and protect their minor children. Where minor children cause harm to the state, a collective, or another person, the parents shall bear civil liability in accordance with the law.

Article 1069 — Children shall have the duty to support their parents. The duty of children to support their parents shall not terminate as a result of a change in the parents' marital relationship.

Article 1070 — Parents and children shall have the right to inherit each other's property.

Article 1071 — Children born out of wedlock shall have the same rights as children born in wedlock, and no organization or individual may harm or discriminate against them. A biological parent who does not directly raise a child born out of wedlock shall bear the expenses for raising the minor child or the adult child who cannot live independently.

Article 1072 — Maltreatment or discrimination between stepparents and stepchildren shall be prohibited. The provisions of this Law governing the relations between parents and children shall apply to the rights and duties between a stepfather or stepmother and a stepchild who is raised and educated by the stepfather or stepmother, or between a stepfather or stepmother and a stepchild who supports the stepfather or stepmother.

Article 1073 — Where there is any doubt as to the parentage of a child, the father or the mother may file a lawsuit in a people's court to affirm or deny the parentage. Where there is any doubt as to the parentage of a child and the child is an adult, the child may file a lawsuit in a people's court to affirm the parentage.

Article 1074 — Grandparents who can afford to do so shall have the duty to raise their minor grandchildren whose parents are deceased or are unable to raise them. Grandchildren who can afford to do so shall have the duty to support their grandparents whose children are deceased or are unable to support them.

Article 1075 — Elder siblings who can afford to do so shall have the duty to raise their minor younger siblings whose parents are deceased or are unable to raise them. Younger siblings who have been raised by their elder siblings and can afford to do so shall have the duty to support their elder siblings who are unable to work and have no source of income.

Chapter IV — Divorce

Article 1076 — Where both spouses voluntarily intend to divorce, they shall sign a written divorce agreement and apply for divorce registration in person at the marriage registration authority. The divorce agreement shall state the intention of both parties to divorce voluntarily and the consensus reached on matters such as child support, property division, and the handling of debts.

Article 1077 — Within 30 days of receiving the application for divorce registration from the parties, either party who is unwilling to proceed with the divorce may withdraw the application for divorce registration from the marriage registration authority. Upon expiration of the period specified in the preceding paragraph, both parties shall, within 30 days, personally visit the marriage registration authority to apply for the issuance of the divorce certificate. Where the parties fail to apply, the application for divorce registration shall be deemed withdrawn.

Article 1078 — The marriage registration authority shall, upon verifying that the parties indeed intend to divorce voluntarily and have reached a consensus on matters such as child support, property division, and the handling of debts, register the divorce and issue a divorce certificate.

Article 1079 — Where only one spouse intends to divorce, the matter may be handled by the relevant organization through mediation, or the spouse may directly file a lawsuit for divorce in a people's court. In trying a divorce case, a people's court shall conduct mediation. Where the relationship between the spouses has truly broken down and mediation is unsuccessful, the divorce shall be granted. A divorce shall be granted under any of the following circumstances where mediation is unsuccessful:

- (1) bigamy or cohabitation by a married person with any other person;
- (2) domestic violence or maltreatment or desertion of family members;
- (3) persistent gambling, drug abuse, or other vices that remain uncorrected after repeated admonishment;
- (4) separation for two full years due to emotional incompatibility; or
- (5) any other circumstance that has caused the breakdown of the relationship between the spouses.

Where one spouse is declared missing and the other spouse files a lawsuit for divorce, the divorce shall be granted. Where a people's court has rendered a judgment denying the divorce, and the spouses have separated for one full year thereafter, and one spouse files another lawsuit for divorce, the divorce shall be granted.

Article 1080 — The marriage relationship shall be dissolved upon the completion of the divorce registration, or upon the entry into force of the divorce judgment or mediation statement.

Article 1081 — The current military service member's spouse seeking a divorce shall obtain the consent of the service member, unless the service member has committed a serious fault.

Article 1082 — A husband may not file for divorce during the wife's pregnancy, within one year after the wife's childbirth, or within six months after the termination of the wife's pregnancy, unless the wife files for divorce, or the people's court deems it necessary to accept the husband's application for divorce.

Article 1083 — Where the spouses resume their marriage relationship after divorce, they shall complete the marriage registration procedure anew.

Article 1084 — The relations between parents and children shall not terminate upon the divorce of the parents. After divorce, the children shall remain the children of both parents, regardless of whether the children are directly raised by the father or the mother. After divorce, the parents shall continue to have the right and duty to raise, educate, and protect their children. In principle, a child under the age of two shall be raised directly by the mother. Where the parents fail to reach an agreement on the direct custody of a child who has reached the age of two, the people's court shall make a judgment based on the specific circumstances of both parties and in accordance with the principle of the best interests of the minor child. Where a child has reached the age of eight, his or her true wishes shall be respected.

Article 1085 — After divorce, where one parent directly raises the child, the other parent shall bear part or all of the child support expenses. The amount of such expenses and the duration of such support shall be determined by agreement between the parties. Where no agreement can be reached, the people's court shall make a judgment. The agreement or judgment specified in the preceding paragraph shall not preclude the child from making a reasonable request to either parent for an amount exceeding the amount determined in such agreement or judgment, where necessary.

Article 1086 — After divorce, the parent who does not directly raise the child shall have the right to visit the child, and the other parent shall have the duty to cooperate in the exercise of such right. The method and timing of exercising the right of visitation shall be determined by agreement between the parties. Where no agreement can be reached, the people's court shall make a judgment. Where the visitation by the father or mother is detrimental to the physical or mental health of the child, the people's court may suspend the right of visitation in accordance with the law. When the cause for suspension disappears, the right of visitation shall be restored.

Article 1087 — At the time of divorce, the community property of the spouses shall be divided by agreement between the parties. Where no agreement can be reached, the people's court shall make a judgment based on the specific circumstances of the property and in accordance with the principle of taking care of the interests of the children, the wife, and the party who is not at fault. The rights and interests enjoyed by the spouses with respect to the household contractual management of land shall be protected in accordance with the law.

Article 1088 — Where one spouse assumes heavier duties such as raising children, taking care of the elderly, and assisting the other spouse in his or her work during the marriage, he or she shall have the right to request compensation from the other spouse at the time of divorce. The other spouse shall make compensation. The specific method of compensation shall be determined by agreement between the parties. Where no agreement can be reached, the people's court shall make a judgment.

Article 1089 — At the time of divorce, the joint debts of the spouses shall be paid off jointly by the spouses. Where the community property is insufficient to pay off the debts, or where the property is owned separately by each spouse, the debts shall be paid off by agreement between the parties. Where no agreement can be reached, the people's court shall make a judgment.

Article 1090 — Where one spouse is in financial hardship at the time of divorce, the other spouse who is capable of doing so shall provide appropriate assistance. The specific method of assistance shall be determined by agreement between the parties. Where no agreement can be reached, the people's court shall make a judgment.

Article 1091 — The party who is not at fault shall have the right to claim damages under any of the following circumstances leading to divorce:

- (1) bigamy;
- (2) cohabitation by a married person with any other person;
- (3) domestic violence;

- (4) maltreatment or desertion of family members; or
- (5) any other serious fault.

Article 1092 — Where one spouse conceals, transfers, sells, destroys, or wastes the community property, or creates false joint debts, in an attempt to appropriate the property of the other spouse, the spouse who commits such acts may receive a reduced share or no share of the community property at the time of division of the community property upon divorce. Where any of the aforesaid acts is discovered after divorce, the other spouse may file a lawsuit in a people's court for a new division of the community property.

Chapter V — Adoption

Section 1 — Establishment of the Adoptive Relationship

Article 1093 — The following minors may be adopted:

- (1) orphans who have lost both parents;
- (2) minors whose biological parents cannot be found;
- (3) minors whose biological parents are unable to raise them due to special difficulties.

Article 1094 — The following individuals or organizations may send a child for adoption:

- (1) the guardian of an orphan;
- (2) a child welfare institution; or
- (3) biological parents who are unable to raise their child due to special difficulties.

Article 1095 — Where the biological parents of a minor are both persons who do not have full capacity for civil conduct and may cause serious harm to the minor, the guardian of the minor may send the minor for adoption.

Article 1096 — Where a guardian intends to send an orphan under guardianship for adoption, he or she shall obtain the consent of the person who has the duty to support the orphan. Where the person who has the duty to support the orphan does not consent to the adoption, and the guardian is unwilling to continue to perform the guardianship duties, a new guardian shall be appointed in accordance with the provisions of Part I of this Code.

Article 1097 — Biological parents who intend to send their child for adoption shall send the child for adoption jointly. Where one biological parent is unknown or cannot be found, the other biological parent may send the child for adoption alone.

Article 1098 — An adopter shall meet all of the following conditions:

- (1) having no children or having only one child;
- (2) being capable of raising, educating, and protecting the adoptee;
- (3) not suffering from any disease that is medically considered unfit for adopting a child;
- (4) having no criminal record that is detrimental to the healthy growth of the adoptee; and
- (5) having reached the age of 30.

Article 1099 — A person may adopt a child of a collateral relative of the same generation within three generations. No restrictions shall apply to the circumstances set forth in Article 1093, paragraph 3 and Article 1103, paragraph 2 of this Law, or to the requirement that the child be under the age of 14. An overseas Chinese adopting a child of a collateral relative of the same generation within three generations may also be exempted from the restriction that the adopter has no children or has only one child.

Article 1100 — A person who has no children may adopt two children. A person who has one child may adopt only one more child. The adoption of orphans, disabled children, or children raised by child welfare institutions whose biological parents cannot be found shall be exempt from the restrictions set forth in the preceding paragraph and in Article 1098, paragraph 1 of this Law.

Article 1101 — Where a person with a spouse intends to adopt a child, the husband and wife shall adopt the child jointly.

Article 1102 — Where the adopter is a person of the opposite sex to the adoptee, the age difference between the adopter and the adoptee shall be at least 40 years.

Article 1103 — The adoption of a child who has reached the age of eight shall be subject to the consent of the adoptee.

Article 1104 — An adoptive relationship shall be established upon the completion of adoption registration at the civil affairs department of the people's government at or above the county level. For the adoption of a minor whose biological parents cannot be found, the civil affairs department handling the registration shall make a public announcement before registration. Where the parties to the adoptive relationship intend to enter into an adoption agreement, they may enter into an adoption agreement. Where either or both parties to the adoptive relationship request notarization of the adoption, such notarization shall be processed.

Article 1105 — After the establishment of the adoptive relationship, the public security organ shall, in accordance with the relevant state regulations, complete the household registration for the adoptee.

Article 1106 — Where one of the biological parents or both biological parents request to keep the adoption confidential, the other persons shall respect their wishes and shall not disclose such information.

Section 2 — Effect of Adoption

Article 1107 — Upon the establishment of the adoptive relationship, the provisions of this Law on the relations between parents and children shall apply to the rights and duties between the adoptive parents and the adopted child. The provisions of this Law on the relations between close relatives of children and close relatives of parents shall apply to the rights and duties between the adopted child and the close relatives of the adoptive parents. The rights and duties between the adopted child and his or her biological parents and other close relatives shall be extinguished upon the establishment of the adoptive relationship.

Article 1108 — An adopted child may take the surname of the adopter, or may retain his or her original surname upon the consent of all the parties concerned.

Article 1109 — Any civil legal act relating to adoption that is in violation of the provisions of Part I, Chapter VI and Part I of this Law shall be void. Void adoption shall have no legal effect ab initio.

Section 3 — Dissolution of the Adoptive Relationship

Article 1110 — Adoptive parents shall not dissolve the adoptive relationship before the adopted child reaches the age of majority, unless otherwise agreed by the adoptive parents and the party sending the child for adoption. Where the adoption of a child who has reached the age of eight is dissolved, the consent of the adopted child shall be obtained. Where the adoptive parents fail to perform the duty of raising the adopted child, or commit acts of maltreatment, desertion, or other acts that infringe upon the lawful rights and interests of the minor adopted child, the party sending the child for adoption shall have the right to demand the dissolution of the adoptive relationship. Where the adoptive parents and the party sending the child for adoption fail to reach an agreement on the dissolution of the adoptive relationship, either party may file a lawsuit in a people's court.

Article 1111 — Where the relationship between the adopted child who has reached the age of majority and the adoptive parents deteriorates to such an extent that they cannot live together, the adoptive relationship may be dissolved by agreement. Where no agreement can be reached, either party may file a lawsuit in a

people's court.

Article 1112 — Where the parties agree to dissolve the adoptive relationship, they shall complete the dissolution registration at the civil affairs department.

Article 1113 — Upon the dissolution of the adoptive relationship, the rights and duties between the adopted child who has reached the age of majority and the adoptive parents and the close relatives of the adoptive parents shall be extinguished. The rights and duties between the adopted child who has reached the age of majority and his or her biological parents or other close relatives shall be restored upon consultation. Whether such rights and duties shall be restored shall be subject to negotiation.

Article 1114 — Upon the dissolution of the adoptive relationship, the adopted child who has been raised by the adoptive parents and who has reached the age of majority shall perform the duty to support the adoptive parents who are unable to work and have no source of income. Where the adoptive relationship is dissolved due to the maltreatment or desertion of the minor adopted child by the adoptive parents, the adoptive parents shall have no right to demand compensation from the party sending the child for adoption for the expenses of raising the adopted child. Where after the adopted child reaches the age of majority, the adoptive relationship is dissolved due to the maltreatment or desertion of the adoptive parents by the adopted child, the adoptive parents may demand compensation from the adopted child for the expenses of raising the adopted child.

Article 1115 — Where the adoptive parents request the dissolution of the adoptive relationship, they shall compensate the party sending the child for adoption for the expenses incurred after the dissolution, unless the adoptive relationship is dissolved due to the fault of the party sending the child for adoption.

Disclaimer: This is an unofficial English translation of Book V (Marriage and Family) of the Civil Code of the People's Republic of China, prepared for reference and informational purposes only. It is not an official translation and has no legal effect. While every effort has been made to ensure accuracy, the Chinese original text shall prevail in the event of any discrepancy. This translation is provided without warranty of any kind, express or implied. Users should consult qualified legal professionals in China for advice on specific matters. This translation does not constitute legal advice.