Criminal Procedure Law of the People's Republic of China

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Part I — General Provisions

Chapter I — Aim and Basic Principles

Article 1 — This Law is enacted in accordance with the Constitution for the purposes of ensuring the correct implementation of the Criminal Law, punishing crimes, protecting the people, safeguarding national security and the public security of society, and upholding the socialist legal order.

Article 2 — The tasks of the Criminal Procedure Law of the People's Republic of China shall be: to ensure the accurate and timely identification of criminal facts, the correct application of law, the punishment of criminals, and the protection of the innocent from criminal prosecution; to educate citizens to consciously abide by the law and to actively fight against criminal acts; to safeguard the socialist legal system; to respect and protect human rights; to protect citizens' personal rights, property rights, democratic rights, and other rights; and to ensure the smooth progress of socialist construction.

Article 3 — Public security organs shall be responsible for investigation, detention, execution of arrest, and preliminary examination in criminal cases. People's procuratorates shall be responsible for procuratorial work, approval of arrest, investigation of cases directly accepted by procuratorial organs, and initiation of public prosecution. People's courts shall be responsible for trial. Except as otherwise specially provided by law, no other organs, organizations, or individuals shall have the right to exercise such powers. In conducting criminal proceedings, the people's courts, people's procuratorates, and public security organs must strictly abide by the relevant provisions of this Law and other laws.

Article 4 — State security organs shall handle cases of crimes endangering state security in accordance with the provisions of this Law and exercising the same functions and powers as public security organs.

Article 5 — In conducting criminal proceedings, the people's courts and people's procuratorates shall independently exercise their respective adjudicative and procuratorial powers in accordance with law, and shall not be subject to interference by any administrative organ, social organization, or individual.

Article 6 — In conducting criminal proceedings, the people's courts, people's procuratorates, and public security organs must rely on the masses, base themselves on facts, and take law as the criterion. All citizens are equal before the law, and no privilege is allowed before the law.

Article 7 — In conducting criminal proceedings, the people's courts, people's procuratorates, and public security organs shall divide responsibilities, coordinate with one another, and check one another so as to ensure the accurate and effective enforcement of law.

Article 8 — People's procuratorates shall exercise legal supervision over criminal proceedings in accordance with law.

Article 9 — Citizens of all ethnic groups shall have the right to use their own spoken and written languages in litigation. In regions where people of ethnic minorities live in concentrated communities or where multiple ethnic groups live together, the people's courts, people's procuratorates, and public security organs shall conduct proceedings and issue legal documents in the locally commonly used spoken and written languages. The people's courts, people's procuratorates, and public security organs shall provide interpretation for participants in proceedings who are not familiar with the locally commonly used spoken and written languages.

Article 10 — The people's courts shall implement the system of the court of second instance being the court of last instance in trying cases.

Article 11 — All cases in the people's courts shall be tried in public, except as otherwise provided by this Law. The defendant shall have the right to defense; the people's courts shall have the obligation to ensure that the defendant obtains defense. The people's courts shall hear cases through a collegial panel or by a single judge, except as otherwise provided by law. No person shall be found guilty without a judgment rendered by the people's court according to law.

Article 12 — No person shall be adjudged guilty without a judgment rendered by a people's court according to law.

Article 13 — In trying cases, the people's courts shall apply the system of people's assessors in accordance with this Law.

Article 14 — The people's courts, people's procuratorates, and public security organs shall ensure the right of criminal suspects, defendants, and other litigation participants to defense and other procedural rights in accordance with law. Litigation participants shall have the right to file charges against judges, procurators, and investigators for acts of infringing upon a citizen's procedural rights or committing personal insults.

Article 15 — Where a criminal suspect or defendant voluntarily and truthfully confesses his criminal acts, admits the alleged criminal facts, and is willing to accept punishment, he may be dealt with leniently in accordance with law.

Article 16 — Criminal liability shall not be pursued under any of the following circumstances; where criminal liability has already been pursued, the case shall be dismissed, no prosecution shall be initiated, or the trial shall be terminated, or the defendant shall be acquitted: the circumstances are manifestly minor and the act does not constitute a crime; the time limit for criminal prosecution has expired; exemption from criminal punishment was granted through a special amnesty; the criminal suspect or defendant has died; the crime is handled only upon complaint but no complaint has been filed or the complaint has been withdrawn; or other circumstances prescribed by law provide for exemption from criminal liability.

Article 17 — The principle of the Criminal Procedure Law shall apply to foreigners who commit crimes and shall be held criminally liable. Foreigners with diplomatic privileges and immunities shall have their criminal liability pursued through diplomatic channels.

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Article 18 — Judicial assistance in criminal matters between the People's Republic of China and foreign countries shall be handled in accordance with the relevant provisions of this Law where an international treaty concluded or acceded to by the People's Republic of China provides for such assistance, or on the principle of reciprocity.

Chapter II — Jurisdiction

Article 19 — Unless otherwise provided by law, criminal cases shall be under the jurisdiction of the public security organs for investigation. People's procuratorates may file cases for investigation of crimes such as illegal detention, extortion of confessions by torture, and illegal searches committed by judicial officers in taking advantage of their functions and powers, where such crimes are discovered by the people's procuratorates in exercising legal supervision over litigation activities. Where a case of a crime of serious nature involving a State functionary taking advantage of his functions and powers, which falls under the jurisdiction of a public security organ, needs to be directly accepted by a people's procuratorate, the people's procuratorate may file the case for investigation upon decision of the people's procuratorate at or above the provincial level. Cases of private prosecution shall be directly accepted by the people's courts.

Article 20 — Basic people's courts shall have jurisdiction over ordinary criminal cases of first instance, except those over which jurisdiction is exercised by the people's courts at a higher level in accordance with this Law.

Article 21 — Intermediate people's courts shall have jurisdiction over the following criminal cases of first instance: cases endangering state security and cases of terrorist activities; and cases that may involve life imprisonment or the death penalty.

Article 22 — Higher people's courts shall have jurisdiction over major criminal cases of first instance that pertain to an entire province, autonomous region, or municipality directly under the Central Government.

Article 23 — The Supreme People's Court shall have jurisdiction over major criminal cases of first instance that pertain to the entire nation.

Article 24 — A people's court at a higher level may, when necessary, try a criminal case of first instance over which a people's court at a lower level has jurisdiction. A people's court at a lower level may request the transfer of a criminal case of first instance that is major or complicated and needs a people's court at a higher level to try to the people's court at the next higher level for trial.

Article 25 — A criminal case shall be under the jurisdiction of the people's court at the place where the crime was committed. Where it is more appropriate to try the case by the people's court at the place of the defendant's domicile, the case may be under the jurisdiction of the people's court at the place of the defendant's domicile.

Article 26 — Where two or more people's courts at the same level have jurisdiction over a case, the case shall be tried by the people's court that first accepts it. When necessary, the case may be transferred to the people's court at the principal place where the crime was committed for trial.

Article 27 — A people's court at a higher level may designate a people's court at a lower level to try a case over which the jurisdiction is unclear, and may also designate a people's court at a lower level to transfer the case to another people's court for trial.

Article 28 — The jurisdiction of specialized people's courts shall be stipulated separately.

Chapter III — Withdrawal

Article 29 — A judge, procurator, or investigator shall voluntarily withdraw, and the parties and their legal representatives shall have the right to request the withdrawal of such person, under any of the following circumstances: he is a party or a close relative of a party to the case; he or his close relative has an interest in the case; he has served as a witness, expert witness, defender, or agent ad litem in the current case; or he has other relationships with a party to the case that may affect the impartial handling of the case.

Article 30 — A judge, procurator, or investigator shall not receive meals or gifts from, accept invitations to meals by, or meet with the parties to a case or persons entrusted by the parties in violation of regulations. A judge, procurator, or investigator who violates the provisions of the preceding paragraph shall be pursued for legal liability in accordance with law. The parties and their legal representatives shall have the right to request the withdrawal of such person.

Article 31 — The withdrawal of a judge, procurator, or investigator shall be decided respectively by the president of the court, the chief procurator, and the head of the public security organ. The withdrawal of the president of the court shall be decided by the judicial committee of the court. The withdrawal of the chief procurator and the head of the public security organ shall be decided by the procuratorial committee of the people's procuratorate at the corresponding level. Investigators shall not suspend the investigation of a case before a decision on their withdrawal is made. Where a decision on withdrawal is made, the judicial officer who has withdrawn shall not participate in the handling of the case before the decision is made. The provisions of this Chapter shall apply to court clerks, interpreters, and expert witnesses. Defenders and agents ad litem may request withdrawal and apply for reconsideration in accordance with the provisions of this Chapter.

Chapter IV — Defense and Representation

Article 32 — In addition to exercising the right of defense himself, a criminal suspect or defendant may also entrust one or two persons as defenders. The following persons may be entrusted as defenders: lawyers; persons recommended by a people's organization or the criminal suspect's or defendant's unit; and guardians, relatives, and friends of the criminal suspect or defendant. Persons who are currently serving a criminal sentence, or who have been deprived of or restricted personal freedom in accordance with law, shall not serve as defenders. Persons who have been dismissed from public office or have had their practicing certificates for lawyers or notaries revoked shall not serve as defenders, except for guardians or close relatives of the criminal suspect or defendant.

Article 33 — A criminal suspect shall have the right to entrust a defender from the date of first interrogation or the date on which compulsory measures are taken against him by the investigation organ. During the investigation period, only lawyers may be entrusted as defenders. A defendant shall have the right to entrust a defender at any time. The investigation organ, when interrogating a criminal suspect for the first time or taking compulsory measures against him, shall inform him of the right to entrust a defender. A people's procuratorate shall, within three days from the date of receipt of the case materials transferred for examination and prosecution, inform the criminal suspect of the right to entrust a defender. A people's court shall, within three days from the date of acceptance of the case, inform the defendant of the right to entrust a defender. Where a criminal suspect or defendant in custody requests the entrustment of a defender, the people's court, people's procuratorate, or public security organ shall promptly convey such request. Where a criminal suspect or defendant requests the entrustment of a defender while in custody, the people's court, people's procuratorate, or public security organ shall promptly convey such request to his guardian or close relative. Where a defender is entrusted, the defender shall promptly inform the organ handling the case.

Article 34 — Where a criminal suspect or defendant has not entrusted a defender due to financial hardship or other reasons, he or his close relatives may apply to a legal aid institution. Where the conditions for legal aid are met, the legal aid institution shall designate a lawyer to provide defense for him. Where a criminal suspect or defendant is blind, deaf, mute, or a person with a mental disorder who has not completely lost the ability to recognize or control his conduct and has not entrusted a defender, the people's court, people's procuratorate, or public security organ shall notify the legal aid institution to designate a lawyer to provide defense for him. Where a criminal suspect or defendant who may be sentenced to life imprisonment or the death penalty has not entrusted a defender, the people's court, people's procuratorate, or public security organ shall notify the legal aid institution to designate a lawyer to provide defense for him.

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Article 35> — The defender's responsibility shall be to present materials and opinions on the criminal suspect's or defendant's innocence, pettiness of the crime, or mitigation or elimination of criminal liability, and to safeguard the procedural rights and other lawful rights and interests of the criminal suspect or defendant on the basis of facts and law.

Article 36 — Defense lawyers may provide legal aid to criminal suspects during the investigation, act as agents for filing complaints and charges, apply for modification of compulsory measures, inquire about the crimes suspected and relevant case information from the investigation organ, and offer opinions.

Article 37 — Defense lawyers may meet and communicate with criminal suspects or defendants in custody. Other defenders, with the permission of the people's court or people's procuratorate, may also meet and communicate with criminal suspects or defendants in custody. Where a defense lawyer holds a practicing certificate for lawyers, a law firm certificate, and a power of attorney or an official legal aid letter and requests to meet with a criminal suspect or defendant in custody, the detention facility shall arrange such meeting in a timely manner, which shall not exceed forty-eight hours at the latest. Defense lawyers shall not be monitored when meeting with criminal suspects or defendants in custody. The provisions of the first, third, and fourth paragraphs shall apply to meetings and communications between defense lawyers and criminal suspects or defendants under residential surveillance.

Article 38 — During the period of investigation, defense lawyers may investigate and collect evidence on their own, and may also apply to the people's procuratorate or the people's court to collect or obtain evidence, or to notify witnesses to appear in court and testify. Lawyers acting as defenders may, with the permission of the witnesses or other relevant entities and individuals, collect from them materials relating to the current case, and may also apply to the people's procuratorate or the people's court to collect or obtain evidence, or to notify witnesses to appear in court and testify.

Article 39 — Defenders and other persons shall not assist criminal suspects or defendants in concealing, destroying, or falsifying evidence or in collusion of statements, and shall not engage in acts such as threatening or inducing witnesses to commit perjury, and shall not engage in other acts obstructing judicial proceedings. Where the preceding paragraph is violated, legal liability shall be pursued in accordance with law. Where a defender is suspected of committing a crime, the case shall be handled by an investigation organ other than the organ handling the case in which the defender undertakes the defense. Where the defender is a lawyer, the law firm to which the lawyer belongs or the lawyers' association to which he belongs shall be promptly notified.

Article 40 — The provisions of this Chapter concerning defenders shall apply to agents ad litem. Where an agent ad litem is entrusted, reference shall be made to the provisions of Article 32 of this Law.

Chapter V — Evidence

Article 41 — All facts used to prove the circumstances of a case shall be evidence. Evidence shall be of the following types: physical evidence; documentary evidence; witness testimony; victim statements; statements and exculpation of criminal suspects or defendants; expert opinions; transcripts of inquests, examinations, identification, investigation experiments, and other records; and audio-visual materials and electronic data. Evidence must be verified before it can serve as the basis for deciding a case.

Article 42 — Public prosecution cases shall be supported by the burden of proof of the guilt of the defendant borne by the people's procuratorate; in private prosecution cases, the burden of proof of the guilt of the defendant shall be borne by the private prosecutor.

Article 43 — Judges, procurators, and investigators must collect, in accordance with statutory procedures, various evidence that can prove the guilt or innocence of the criminal suspect or defendant and the gravity of the crime. It shall be strictly prohibited to extort confessions by torture, and to collect evidence by means of threat, enticement, deception, or other illegal means. No person shall be compelled to prove his own guilt.

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The conditions for the arrest of a criminal suspect or defendant as prescribed by law must be met, and a person must not be compelled to incriminate himself.

Article 44 — Public security organs submitting requests for approval of arrest, people's procuratorates initiating public prosecutions, and people's courts rendering judgments must be faithful to the facts and the truth. Persons who intentionally conceal the truth shall be pursued for liability.

Article 45 — The people's courts, people's procuratorates, and public security organs shall have the right to collect or obtain evidence from the relevant entities and individuals. The relevant entities and individuals shall provide truthful evidence. Evidence involving State secrets, trade secrets, and personal privacy shall be kept confidential. Anyone who falsifies, conceals, or destroys evidence, regardless of which side the evidence is favorable to, shall be pursued for legal liability.

Article 46 — The comprehensive analysis of all evidence shall be used in handling a case, and conclusions shall be drawn based on all evidence rather than placing credence in confessions alone. Where there is only the defendant's confession and no other evidence, the defendant shall not be found guilty and sentenced to criminal punishment; where there is no defendant's confession but the evidence is sufficient and reliable, the defendant may be found guilty and sentenced to criminal punishment. Evidence is sufficient and reliable when the following conditions are met: all facts for conviction and sentencing are supported by evidence; all evidence used to decide a case has been verified through statutory procedures; and on the basis of the comprehensive analysis of all evidence in the case, all established facts have been proved beyond reasonable doubt.

Article 47 — Witness testimony may serve as the basis for deciding a case only after the witness has been cross-examined in court by the public prosecutor, the victim, the defendant, and the defenders. Where a court discovers that a witness intentionally commits perjury or conceals criminal evidence, it shall handle the matter in accordance with law.

Article 48 — Any person who has information about a case shall have the obligation to testify. A person who is physically or mentally deficient or too young to distinguish right from wrong or to express himself correctly shall not be qualified to testify.

Article 49 — The people's courts, people's procuratorates, and public security organs shall ensure the safety of witnesses and their close relatives. Where a witness testifies in a case of the crime of endangering national security, terrorist activities, organized crime of a gangland nature, or drug-related crimes, and the personal safety of the witness, expert witness, or victim or their close relatives is endangered as a result of their testimony in court, the people's courts, people's procuratorates, and public security organs shall take one or more of the following protective measures: withholding their true names, addresses, work units, and other personal information; employing methods such as not showing their faces when testifying in court; adopting special measures to prohibit specific persons from contacting them; taking special protective measures for their persons and residences; and other necessary protective measures. Witnesses, expert witnesses, and victims who believe that their personal safety or the safety of their close relatives is endangered as a result of testifying in court may request protection from the people's courts, people's procuratorates, or public security organs.

Article 50 — Witnesses shall be entitled to transportation, accommodation, and meal subsidies for performing the obligation of testifying. The work units of witnesses shall not deduct or reduce in disguised form their wages, bonuses, or other welfare benefits for their testifying. The subsidies for witnesses shall be included in the operational expenses of the judicial organs and guaranteed by the treasury of the people's government at the same level.

Chapter VI — Compulsory Measures

Article 51 — Compulsory measures in criminal proceedings shall include: summons by force, release on bail pending trial, residential surveillance, detention, and arrest.

Article 52 — The people's courts, people's procuratorates, and public security organs may, based on the circumstances of the case, summon the criminal suspect or defendant by force, release him on bail pending trial, or place him under residential surveillance.

Article 53 — The people's courts, people's procuratorates, and public security organs may release a criminal suspect or defendant on bail pending trial under any of the following circumstances: he may be sentenced to public surveillance, criminal detention, or a supplementary punishment imposed independently; he may be sentenced to a fixed-term imprisonment or a heavier punishment, but releasing him on bail pending trial would not endanger society; he suffers from a serious illness, is unable to take care of himself, is a pregnant woman, or is a woman who is breastfeeding her own baby, and releasing him on bail pending trial would not endanger society; and the period of detention has expired and the case has not been concluded, and it is necessary to release him on bail pending trial. The decision to release a person on bail pending trial shall be executed by the public security organ.

Article 54 — Where the people's courts, people's procuratorates, and public security organs decide to release a criminal suspect or defendant on bail pending trial, they shall order the criminal suspect or defendant to provide a guarantor or pay a bond. A guarantor must meet the following conditions: not being involved in the current case; being able to perform the guarantor's obligations; enjoying political rights and not having had his personal freedom restricted; and having a fixed domicile and income.

Article 55 — A guarantor shall perform the following obligations: supervising the guaranteed person's compliance with the provisions of Article 56 of this Law; and promptly reporting to the executing organ upon discovering that the guaranteed person may or has violated the provisions of Article 56. Where a guarantor fails to perform his obligations, he shall be imposed a fine on the guarantor; where the act constitutes a crime, criminal liability shall be pursued in accordance with law.

Article 56 — A criminal suspect or defendant released on bail pending trial shall comply with the following provisions: not leaving the city or county where he resides without the approval of the executing organ; promptly reporting any change in his address, work unit, or contact information to the executing organ within twenty-four hours; appearing in court at the time designated for interrogation; not interfering with witnesses in any form; and not destroying or falsifying evidence, or colluding on statements. The people's courts, people's procuratorates, and public security organs may, based on the circumstances of the case, order a criminal suspect or defendant released on bail pending trial to comply with one or more of the following provisions: not entering certain places; not meeting or communicating with certain persons; not engaging in certain activities; and delivering his travel documents, driver's license, and other relevant certificates to the executing organ for preservation.

Article 57 — A criminal suspect or defendant who violates the provisions of the preceding Article and has paid a bond shall have part or all of the bond confiscated, and, according to the specific circumstances, shall be ordered to make a statement of repentance, pay a new bond, provide a guarantor, or be placed under residential surveillance or arrested. A criminal suspect or defendant who needs to be arrested for violating the provisions of the preceding Article may be detained first.

Article 58 — Residential surveillance shall be executed at the domicile of the criminal suspect or defendant. Where there is no fixed domicile, residential surveillance may be executed at a designated place of residence. Residential surveillance involving a crime endangering state security or terrorist activities that would obstruct investigation if executed at the domicile may be executed at a designated place of residence upon the approval of the public security organ at the next higher level. Residential surveillance shall not be executed at a detention facility or a place specially used for handling cases.

Article 59 — The public security organ shall execute a decision on detention. When executing detention, the person to be detained must be shown the detention warrant. Within twenty-four hours after detention, the family of the detained person or his unit shall be notified, except where notification would obstruct the investigation or notification cannot be made. The detained person shall be interrogated within twenty-four hours after detention. Where it is discovered that a person should not have been detained, he must be released immediately and issued a release certificate.

Article 60 — The public security organ shall, within three days after detaining a person, submit a request to the people's procuratorate for examination and approval of arrest. Under special circumstances, the time limit for submitting a request for examination and approval of arrest may be extended for one to four days. For major criminal suspects who commit crimes by roaming, who commit crimes repeatedly, or who commit crimes in partnership, the time limit for submitting a request for examination and approval of arrest may be extended to thirty days. The people's procuratorate shall, within seven days from the date of receipt of the request from the public security organ for approval of arrest, make a decision on whether to approve or disapprove the arrest. Where the people's procuratorate disapproves the arrest, the public security organ shall, upon receiving the notice, immediately release the detained person and promptly notify the people's procuratorate of the implementation thereof.

Article 61 — Where a public security organ arrests a person who should have been arrested in accordance with law, and the detained person is a major suspect and falls under any of the following circumstances, the public security organ may detain him first: he is preparing to commit a crime, is committing a crime, or is discovered immediately after committing a crime; the victim or a person who saw the crime identifies him as the perpetrator; criminal evidence is found at his side or at his domicile; he attempts to commit suicide, or escapes, or is a fugitive; there is a likelihood of his destroying or falsifying evidence, or colluding on statements; he does not reveal his true name or address, and his identity is unknown; or he is strongly suspected of committing crimes by roaming, committing crimes repeatedly, or committing crimes in partnership.

Article 62 — Where the public security organ arrests a person who should be arrested in accordance with law who is a fugitive, a wanted arrest warrant may be issued and effective measures adopted to capture him and bring him to justice. Public security organs at all levels may directly issue wanted arrest warrants within their respective jurisdictions; for wanted arrest warrants beyond their respective jurisdictions, they shall request the higher-level organ with the authority to decide to issue the wanted arrest warrant.

Article 63 — A criminal suspect or defendant who is found to have evidence proving the facts of a crime and may be sentenced to a fixed-term imprisonment or a heavier punishment, where releasing him on bail pending trial is insufficient to prevent the following dangers to society, shall be arrested: he may commit a new crime; there is a danger of endangering state security, public security, or social order; he may destroy or falsify evidence, or interfere with witnesses' testimony or collusion on statements; he may take revenge on the victim, informant, or accuser; or he attempts to commit suicide or to escape. Where a criminal suspect or defendant who may be sentenced to a fixed-term imprisonment of ten years or more, or a criminal suspect or defendant who may be sentenced to a fixed-term imprisonment or more and has committed an intentional crime or has an unknown identity, shall be arrested. Where a criminal suspect or defendant released on bail pending trial or under residential surveillance violates the provisions on bail pending trial or residential surveillance, and the circumstances are serious, he may be arrested.

Article 64 — When making an arrest, the public security organ must produce the arrest warrant to the person to be arrested. Within twenty-four hours after arrest, the family of the arrested person or his unit shall be notified, except where notification cannot be made. The arrested person shall be interrogated within twenty-four hours after arrest. Where it is discovered that a person should not have been arrested, he must be released immediately and issued a release certificate.

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Article 65 — The people's courts, people's procuratorates, and public security organs shall, upon discovering that the compulsory measures taken against a criminal suspect or defendant are inappropriate, promptly revoke or modify them. Where the public security organ's request for approval of arrest is disapproved by the people's procuratorate, and the public security organ considers that the people's procuratorate's decision not to arrest is erroneous, the public security organ may request reconsideration, and if its opinion is not accepted, may apply to the people's procuratorate at the next higher level for review. The people's procuratorate at the higher level shall immediately review the matter, make a decision on whether to modify the decision, and notify the people's procuratorate at the lower level and the public security organ of its execution.

Article 66 — The maximum period of detention for a criminal suspect after arrest shall not exceed two months. Where the case is complex and cannot be concluded within the time limit, an extension of one month may be granted upon approval of the people's procuratorate at the next higher level. Under any of the following circumstances, the period of investigation and custody after arrest as prescribed in the preceding paragraph cannot be concluded within the prescribed time limit, an extension of two months may be granted upon the decision or approval of the people's procuratorate of the province, autonomous region, or municipality directly under the Central Government: a major and complex case in an outlying area with extremely difficult traffic conditions; a major case of a criminal gang; a major and complex case involving crimes committed by roaming; and a major and complex case involving a wide scope of crimes and difficulty in obtaining evidence. Where a criminal suspect may be sentenced to a fixed-term imprisonment of ten years or more, and the period of investigation and custody after arrest as prescribed in the preceding Article and paragraphs cannot be concluded within the prescribed time limit, an extension of an additional two months may be granted upon decision or approval of the people's procuratorate of the province, autonomous region, or municipality directly under the Central Government.

Article 67 — Where a people's procuratorate directly accepts and files a case, the time limit for a decision on detention or arrest shall be governed by this Law. The people's procuratorate shall, within fourteen days from the date of detention, make a decision on whether to arrest, release on bail pending trial, or place under residential surveillance. Under special circumstances, the time limit for a decision on arrest may be extended for one to three days. The time limit for a decision on arrest of a criminal suspect who does not need to be detained shall not exceed fifteen days; under special circumstances, the time limit for a decision on arrest may be extended for one to three days.

Article 68 — Where the people's court, people's procuratorate, or public security organ releases a criminal suspect or defendant on bail pending trial, the maximum period shall not exceed twelve months; the maximum period of residential surveillance shall not exceed six months. During the period of release on bail pending trial or residential surveillance, the investigation, prosecution, and trial of the case shall not be interrupted. Where it is discovered that criminal liability should not be pursued, or the period of release on bail pending trial or residential surveillance has expired, the release on bail pending trial or residential surveillance shall be promptly revoked. The criminal suspect or defendant released on bail pending trial, the person under residential surveillance, and their work units shall be promptly notified of the revocation of release on bail pending trial or residential surveillance.

Article 69 — Where a criminal suspect or defendant in custody, his legal representative, or close relative, or a defender applies for modification of compulsory measures, the people's court, people's procuratorate, or public security organ shall make a decision within three days from the date of receipt of the application. Where it disagrees with the modification of compulsory measures, it shall inform the applicant and state the reasons. The people's courts, people's procuratorates, and public security organs shall, upon the expiration of the statutory period of detention, release the criminal suspect or defendant, release him on bail pending trial, place him under residential surveillance, or modify the compulsory measures in accordance with law. The criminal suspect or defendant, his legal representative, close relative, defender, or agent ad litem shall

have the right to request the release or modification of compulsory measures. The people's courts, people's procuratorates, or public security organs shall release the person who should be released or modify the compulsory measures. The release of the criminal suspect or defendant or the modification or revocation of the compulsory measure shall be notified to the people's procuratorate.

Chapter VII — Incidental Civil Actions

Article 70 — Where a victim has suffered material losses as a result of the defendant's criminal act, the victim shall have the right to institute an incidental civil action during the course of criminal proceedings. Where the victim dies or loses the capacity for civil conduct, his legal representative or close relative shall have the right to institute an incidental civil action. Where State property or collective property has suffered losses, the people's procuratorate may institute an incidental civil action when initiating a public prosecution. When necessary, the people's court may seal up or seize the defendant's property.

Article 71 — An incidental civil action shall be tried together with the criminal case. Only for the purpose of preventing excessive delay in the trial of the criminal case, may the same judicial organization continue the trial of the incidental civil action after the criminal case has been tried.

Chapter VIII — Periods and Service

Article 72 — The period shall be calculated on the basis of hours, days, and months. The hour and day from which the period begins shall not be included in the period. The period for service of a legal document shall not include the time in transit. Where an appeal or other document has been mailed before the expiration of the period, it shall not be considered overdue. Where a party is unable to meet a deadline due to force majeure or other justifiable reasons, he may, within five days after the obstacle is removed, apply to continue the proceedings that should have been completed before the expiration of the period. Whether to approve the application shall be decided by the people's court.

Article 73 — The period for a party to file an appeal, apply for review of a protest, or apply for extension of the period of trial and the period of service of a legal document after detention shall be determined according to the provisions of this Law.

Chapter IX — Other Provisions

Article 74 — The public security organs may, in accordance with the provisions of this Law, exercise the power to investigate criminal cases, including interrogation of criminal suspects, questioning of witnesses and victims, inquest and examination, search, sealing up and seizure of physical evidence and documentary evidence, expert evaluation, technical investigation measures, wanted orders, and other such measures.

Article 75 — The people's procuratorates shall exercise the power to approve arrest, exercise procuratorial functions, and initiate public prosecutions in accordance with the provisions of this Law.

Article 76 — Where a participant in the proceedings or a person present at the trial violates the order of the courtroom during the court hearing, the presiding judge shall warn him and stop the violation. Where the person refuses to comply, he may be forcibly removed from the courtroom. Where the circumstances are serious, a fine of not more than RMB one thousand or detention of not more than fifteen days may be imposed. Where the act constitutes a crime, criminal liability shall be pursued in accordance with law.

Part II — Filing a Case, Investigation, and Initiation of Public Prosecution

Chapter I — Filing a Case

Article 77 — The public security organs or people's procuratorates shall, upon discovering facts of a crime or a criminal suspect, file the case for investigation within the scope of their jurisdiction. When a public security organ or a people's procuratorate discovers facts of a crime or a criminal suspect, it shall file a case for investigation within its jurisdiction.

Article 78 — Any entity or individual, upon discovering facts of a crime or a criminal suspect, shall have the right and the obligation to report the case or make an accusation to the public security organ, people's procuratorate, or people's court. Victims shall have the right to report or make an accusation to the public security organ, people's procuratorate, or people's court regarding a criminal act that infringes upon their personal or property rights. The public security organ, people's procuratorate, or people's court shall accept all reports, accusations, and voluntary surrenders. For matters that do not fall under its jurisdiction, it shall transfer them to the competent organ for handling and notify the person who made the report, accusation, or voluntary surrender. For matters that do not fall under its own jurisdiction but require emergency measures, it shall first take emergency measures and then transfer them to the competent organ.

Article 79 — Reports, accusations, or voluntary surrenders may be made in writing or orally. The personnel accepting an oral report, accusation, or voluntary surrender shall prepare a transcript, which shall be signed or sealed by the person making the report, accusation, or voluntary surrender after being read to him without error. The personnel accepting an accusation or report shall explain to the person making the accusation or report the legal liability for false accusations or reports. The public security organs, people's procuratorates, and people's courts shall ensure the safety of the persons making reports, accusations, or voluntary surrenders, and their close relatives. Where a person making a report or accusation does not wish to disclose his name and the act of reporting or accusing, the public security organ, people's procuratorate, or people's court shall keep it confidential for him.

Article 80 — The people's courts, people's procuratorates, and public security organs shall, within the scope of their jurisdiction, promptly examine the materials on reports, accusations, voluntary surrenders, and self-confessions, and shall file a case when they believe that there are facts of a crime that require criminal liability. When they believe that there are no facts of a crime or that the facts are manifestly minor and do not require criminal liability, they shall not file a case and shall inform the person making the accusation of the reasons for not filing the case. Where the person making the accusation is dissatisfied with the decision not to file a case, he may apply for reconsideration.

Article 81 — Where a people's procuratorate considers that a public security organ should file a case for investigation but has not done so, or where a victim considers that a public security organ should file a case for investigation but has not done so, and files a complaint with the people's procuratorate, the people's procuratorate shall require the public security organ to state the reasons for not filing the case. Where the people's procuratorate considers that the reasons for not filing the case stated by the public security organ are insupportable, it shall notify the public security organ to file the case, and the public security organ shall file the case upon receiving the notification.

Chapter II — Investigation

Article 82 — A people's procuratorate may return a case to the public security organ for supplementary investigation or may conduct the investigation itself. For cases requiring supplementary investigation, the investigation shall be completed within one month. Supplementary investigation may be conducted twice. Where the people's procuratorate still considers that the evidence is insufficient and the conditions for prosecution are not met after the supplementary investigation, it may make a decision not to prosecute. The people's court shall, during the trial, decide on the defendant's guilt based on the evidence verified by the court. Where the evidence is insufficient, the defendant shall be acquitted.

Article 83 — When interrogating a criminal suspect, the investigators shall first ask the criminal suspect whether he has committed any criminal act, let him state the circumstances of guilt or explain his innocence, and then ask him questions. The criminal suspect shall truthfully answer the investigators' questions. However, he shall have the right to refuse to answer questions irrelevant to the current case. When interrogating a criminal suspect, the investigators shall inform the criminal suspect of his procedural rights and the legal provisions that truthfully confessing his crime may result in lenient punishment, and that admitting guilt and accepting punishment may also result in lenient punishment.

Article 84 — When interrogating a deaf or mute criminal suspect, a person with a good command of sign language shall participate in the interrogation, and such circumstances shall be noted in the transcript. The transcript of interrogation shall be presented to the criminal suspect for verification. For a criminal suspect who cannot read, the transcript shall be read to him. Where there are omissions or errors in the record, the criminal suspect may request supplements or corrections. After the criminal suspect confirms that the transcript is free from error, he shall sign or seal it. The investigators shall also sign the transcript.

Article 85 — Investigators may question witnesses at the scene or at the witness's unit, domicile, or a location proposed by the witness. When necessary, the witness may be notified to provide testimony at the people's procuratorate or public security organ. When questioning witnesses on the scene, the investigators shall produce their work credentials. When questioning witnesses at the witness's unit, domicile, or a location proposed by the witness, the investigators shall produce the notification certificate issued by the people's procuratorate or public security organ. Witnesses shall be questioned individually.

Article 86 — Investigators shall conduct an inquest or examination of the sites and articles, persons, and corpses related to the crime. When necessary, persons with specialized knowledge may be appointed or hired to conduct the inquest or examination under the auspices of the investigators. Any entity or individual shall have the obligation to protect the scene of a crime and to immediately notify the public security organ to conduct an inquest.

Article 87 — For the purpose of collecting criminal evidence and capturing criminals, investigators may search the person, articles, domicile, and other relevant places of the criminal suspect and persons who may have concealed the criminal or criminal evidence. No entity or individual shall have the obligation, in accordance with the requirements of the people's procuratorates and public security organs, to produce physical evidence, documentary evidence, and audio-visual materials that may prove the guilt or innocence of the criminal suspect. Any entity or individual shall have the obligation to hand over physical evidence, documentary evidence, and audio-visual materials that may prove the guilt or innocence of a criminal suspect.

Article 88 — When conducting a search, search personnel shall present the search warrant to the person being searched. In an emergency during an arrest or detention, a search may be conducted without a search warrant. At the time of search, the person being searched, his family members, neighbors, or other witnesses shall be present. The search of a female suspect shall be conducted by female personnel.

Article 89 — During the investigation, the public security organ may, in accordance with the needs of investigating criminal activities, seal up or seize the property or documents of the criminal suspect that may be used to prove his guilt or innocence and shall properly keep or seal up the same. The property or documents that are not related to the case shall not be sealed up or seized. The property or documents that are sealed up or seized shall be properly kept or sealed up and shall not be used, replaced, or damaged.

Article 90 — When it is necessary to resolve certain specialized issues in a case for the purpose of ascertaining the circumstances of the case, the investigators shall designate or hire persons with specialized knowledge to conduct expert evaluation. After the expert evaluation is conducted, the expert shall produce an expert opinion and sign it. Where the expert intentionally engages in false evaluation, he shall bear legal liability.

Article 91 — The public security organs may issue wanted orders to capture criminal suspects who should be arrested and bring them to justice. The public security organs at or above the county level may directly issue wanted orders within their respective jurisdictions; for wanted orders beyond their respective jurisdictions, they shall request the higher-level organ with the authority to decide to issue the wanted orders.

Article 92 — Where a criminal suspect in a case filed by a public security organ is arrested, the period of investigation and custody after arrest shall not exceed two months. Where the case is complicated and cannot be concluded within the time limit, an extension of one month may be granted upon the approval of

the people's procuratorate at the next higher level.

Article 93 — Upon the completion of the investigation, the public security organ shall ensure that the facts of the crime are clear, the evidence is reliable and sufficient, and a written opinion on prosecution shall be prepared and transferred together with the case file and evidence to the people's procuratorate at the same level for examination and decision. Meanwhile, the public security organ shall inform the criminal suspect and his defense lawyer of the transfer of the case. In cases where a criminal suspect voluntarily confesses his guilt and accepts punishment, the public security organ shall record the circumstances of the voluntary confession and the acceptance of punishment, state the opinions on handling, and indicate them when transferring the case to the people's procuratorate.

Article 94 — During the investigation of a case, where the public security organ discovers that the criminal suspect should not be held criminally liable, it shall dismiss the case. Where the criminal suspect has been arrested, he shall be released immediately, issued a release certificate, and the people's procuratorate that originally approved the arrest shall be notified.

Chapter III — Initiation of Public Prosecution

Article 95 — All cases requiring initiation of public prosecution shall be examined and decided by the people's procuratorates. The people's procuratorate shall examine the case within one month from the date of receipt of the case file and materials transferred for examination and prosecution; for major or complicated cases, the time limit may be extended by fifteen days. Where a criminal suspect voluntarily confesses his guilt and accepts punishment and meets the conditions for the application of expedited procedures, the decision shall be made within ten days; where the criminal suspect may be sentenced to a fixed-term imprisonment of more than one year, the time limit may be extended to fifteen days.

Article 96 — When examining a case, the people's procuratorate must ascertain: whether the facts and circumstances of the crime are clear, whether the evidence is reliable and sufficient, and whether the determination of the nature of the crime and the charges is correct; whether there are any omitted crimes or other persons who should be held criminally liable; whether the case falls under the circumstances where criminal liability should not be pursued; whether there is any incidental civil action; and whether the investigation activities are lawful.

Article 97 — The people's procuratorate shall, within three days from the date of receipt of the case materials transferred for examination and prosecution, inform the criminal suspect of the right to entrust a defender, and inform the victim and his legal representative or close relative, and the parties to an incidental civil action and their legal representatives of the right to entrust an agent ad litem.

Article 98 — The people's procuratorate, when examining a case, shall interrogate the criminal suspect and hear the opinions of the defender or the duty lawyer, the victim, and the agent ad litem of the victim, and record their opinions. Where the defender or the duty lawyer, the victim, and the agent ad litem of the victim submit written opinions, they shall be attached to the case file.

Article 99 — Where the people's procuratorate, when examining a case, requires the public security organ to provide evidence necessary for the court trial, and considers that there may be cases in which evidence was collected by illegal means such as those specified in Article 43 of this Law, it may require the public security organ to provide an explanation of the legality of the evidence collection. The people's procuratorate shall examine the evidence to determine whether it should be excluded in accordance with law.

Article 100 — Where a criminal suspect voluntarily confesses his guilt and accepts punishment, the people's procuratorate shall inform him of his procedural rights and the legal provisions on voluntary confession and acceptance of punishment, hear the opinions of the criminal suspect, the defender, or the duty lawyer, the victim, and the agent ad litem of the victim on the following matters, and record their opinions: the facts of the crime, the charges and the applicable legal provisions; the suggestions on lenient punishment such as lighter

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punishment, mitigated punishment, or exemption from punishment; the applicable procedures after voluntary confession and acceptance of punishment; and other matters requiring hearing of opinions.

Article 101 — Where a people's procuratorate considers that the facts of the crime of a criminal suspect have been ascertained, the evidence is reliable and sufficient, and criminal liability should be pursued in accordance with law, it shall make a decision on prosecution and initiate a public prosecution in the people's court in accordance with the provisions on trial jurisdiction.

Article 102 — Where a criminal suspect falls under any of the circumstances specified in Article 16 of this Law, the people's procuratorate shall make a decision not to prosecute. Where the circumstances of the crime are minor and a criminal punishment does not need to be imposed or exemption from criminal punishment may be granted in accordance with the Criminal Law, the people's procuratorate may make a decision not to prosecute. Where a criminal suspect voluntarily confesses his guilt and accepts punishment, and the circumstances of the crime are minor, and a criminal punishment does not need to be imposed, the people's procuratorate may make a decision not to prosecute. The people's procuratorate shall serve the written decision not to prosecute on the person not prosecuted and his unit. Where the person not prosecuted is in custody, he shall be released immediately. Where the decision not to prosecute is made by the public security organ that transferred the case for prosecution, the people's procuratorate shall serve the written decision not to prosecute on the public security organ.

Part III — Trial

Chapter I — Judicial Organizations

Article 103 — The trial of cases of first instance in the basic people's courts and intermediate people's courts shall be conducted by a collegial panel composed of three judges, or of judges and people's assessors totaling three or seven persons. The trial of cases of first instance in the higher people's courts and the Supreme People's Court shall be conducted by a collegial panel composed of three to seven judges, or of judges and people's assessors totaling three or seven persons. When performing their duties in the people's courts, people's assessors shall enjoy the same rights as judges. The trial of appeal cases and protest cases by the people's courts shall be conducted by a collegial panel of three or five judges. The members of a collegial panel shall be an odd number. The president of the court or the chief judge of a division shall designate one judge as the presiding judge of the collegial panel. Where the president of the court or the chief judge of a division participates in the trial, he shall act as the presiding judge. Where the opinions of the members of a collegial panel differ, the minority shall be subordinate to the majority, but the opinions of the minority shall be recorded in the court record.

Article 104 — Where a collegial panel, after deliberation, considers that a difficult, complicated, or major case needs to be submitted to the president of the court for a decision, it may request the president of the court to decide to submit the case to the judicial committee for discussion and decision. The collegial panel shall execute the decision of the judicial committee.

Chapter II — Procedure of First Instance

Article 105 — After a people's court has examined a case in which public prosecution has been initiated, it shall decide to open a court session to hear the case where the facts of the crime alleged in the bill of prosecution are clear.

Article 106 — After a people's court has decided to open a court session, it shall determine the members of the collegial panel, serve a copy of the people's procuratorate's bill of prosecution on the defendant no later than ten days before the court session, and notify the people's procuratorate of the time and location of the court session three days before the session. The time and location of the court session shall be announced three days before the session.

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Article 107 — The trial of a case of first instance shall be conducted in public. However, cases involving state secrets or personal privacy shall not be heard in public. Cases involving trade secrets may be heard in private upon application by the party concerned. Cases where the defendant was under the age of eighteen at the time of the crime shall not be heard in public.

Article 108 — The court session shall proceed in the following order: the presiding judge shall ascertain whether the parties are present and announce the subject matter of the case; the presiding judge shall announce the names of the members of the collegial panel, the court clerk, the public prosecutor, the defender, the agent ad litem, the expert witness, and the interpreter, and inform the parties of the right to apply for withdrawal of the members of the collegial panel, the court clerk, the public prosecutor, the expert witness, or the interpreter, and the right of the defendant to defense; and the public prosecutor shall read out the bill of prosecution in court.

Article 109 — The defendant and the victim may make statements regarding the crimes alleged in the bill of prosecution, and the public prosecutor may interrogate the defendant. The victim, the plaintiff in an incidental civil action, the defender, and the agent ad litem may, with the permission of the presiding judge, put questions to the defendant. The judge may interrogate the defendant.

Article 110 — Where the public prosecutor or the defender requests the appearance of a witness to testify, the court shall notify the witness to appear in court. The witness shall testify in court. Where a witness refuses to appear in court without justifiable reasons after being notified by the people's court, the people's court may compel him to appear in court, except for the spouse, parents, or children of the defendant. Where a witness, without justifiable reasons, refuses to appear in court or refuses to testify after appearing in court, admonishment shall be given; where the circumstances are serious, with the approval of the president of the court, he may be detained for not more than ten days. The detained person who is dissatisfied with the detention decision may apply to the people's court at the next higher level for reconsideration. Execution shall not be suspended during the period of reconsideration.

Article 111 — The public prosecutor and the defender shall present physical evidence to the court for identification by the parties. Documentary evidence such as transcripts of testimony of witnesses who have not appeared in court, expert opinions, and transcripts of inquests shall be read out in court. The judges shall hear the opinions of the public prosecutor, the parties, the defender, and the agent ad litem.

Article 112 — During the court hearing, the collegial panel may announce an adjournment of the court session where the public prosecutor discovers that the case in which public prosecution has been initiated requires supplementary investigation and makes such a proposal, where the court discovers new facts that may affect the conviction, where the defendant applies for the appearance of a new witness, the collection of new physical evidence, or a new expert evaluation or inquest, or where the defender applies for the collection or obtaining of evidence or the notification of a witness to appear in court.

Article 113 — After the presiding judge announces the conclusion of the court debate, the defendant shall have the right to make a final statement. The presiding judge shall announce an adjournment after the defendant makes his final statement, and the collegial panel shall conduct its deliberations. The collegial panel shall, based on the facts and evidence ascertained and the relevant legal provisions, render one of the following judgments: where the facts of the case are clear, the evidence is reliable and sufficient, and the defendant is found guilty in accordance with law, a guilty verdict shall be rendered; where the defendant is found not guilty in accordance with law, a verdict of not guilty shall be rendered; or where the evidence is insufficient and the defendant cannot be found guilty, a verdict of not guilty shall be rendered on the ground that the charges are not supported by sufficient evidence.

Article 114 — All judgments shall be announced publicly. Where a judgment is announced in court, the written judgment shall be served on the parties and the people's procuratorate that initiated the public prosecution within five days. Where a judgment is announced on a fixed date, the written judgment shall be

served on the parties and the people's procuratorate that initiated the public prosecution immediately after the announcement. The written judgment shall be signed by the judges and the court clerk and shall specify the time limit for appeal and the name of the appellate court.

Article 115 — In any of the following circumstances, trial may be conducted by a single judge: cases under the jurisdiction of the basic people's courts that may be sentenced to fixed-term imprisonment of not more than three years; cases where the defendant voluntarily confesses his guilt and accepts punishment; cases tried under expedited procedures; and other cases where trial by a single judge is permitted by law.

Article 116 — The people's court shall pronounce judgment on a public prosecution case within two months after accepting the case, or not later than three months. For cases where the death penalty may be imposed or incidental civil actions are involved, or in any of the circumstances specified in Article 66 of this Law, an extension of three months may be granted upon the approval of the people's court at the next higher level; where a further extension is required under special circumstances, it shall be submitted to the Supreme People's Court for approval.

Article 117 — Private prosecution cases shall include the following: cases handled only upon complaint; cases where the victim has evidence to prove that it is a minor criminal case; and cases where the victim has evidence to prove that the defendant's act has infringed upon his personal or property rights and should be pursued for criminal liability in accordance with law, but the public security organ or the people's procuratorate refuses to pursue the criminal liability of the defendant.

Article 118 — A people's court shall, within fifteen days from the date of receipt of a private prosecution case, decide whether to accept the case and notify the private prosecutor in writing. In a private prosecution case, the people's court may conduct mediation. The private prosecutor may voluntarily reach a settlement with the defendant or withdraw the private prosecution before the judgment is announced. The provisions of the third paragraph of this Article shall not apply to the cases specified in the third subparagraph of Article 117.

Article 119 — The defendant in a private prosecution case may file a counterclaim against the private prosecutor during the course of the proceedings. The provisions governing private prosecution shall apply to counterclaims.

Article 120 — Where a case under the jurisdiction of a basic people's court has clear facts of the crime, reliable and sufficient evidence, the defendant voluntarily confesses his guilt and accepts punishment, and the defendant agrees to the application of expedited procedures, the expedited procedures may be applied, and trial may be conducted by a single judge. Where the defendant is a blind, deaf, mute person, or a person with a mental disorder who has not completely lost the ability to recognize or control his conduct, or a minor defendant, where the case has a significant social impact, or where the defendant has not reached a mediation or settlement agreement with the victim or his legal representative on compensation for the attached civil litigation or other matters, the expedited procedures shall not apply.

Article 121 — The trial of a case under expedited procedures shall not be subject to the time limits for service prescribed in the first paragraph of Article 106 of this Law. However, the right of the defendant to make a final statement shall be safeguarded. The people's court shall, after accepting a case under expedited procedures, conclude the trial within ten days; where the defendant may be sentenced to a fixed-term imprisonment of more than one year, the time limit may be extended to fifteen days.

Chapter III — Procedure of Second Instance

Article 122 — A defendant, private prosecutor, or their legal representative who is dissatisfied with the judgment or ruling of first instance of a local people's court at any level shall have the right to file an appeal in writing or orally to the people's court at the next higher level. A defender or close relative of a defendant may, with the consent of the defendant, file an appeal. A party to an incidental civil action or his legal representative may file an appeal against the portion of the judgment or ruling of first instance regarding the

incidental civil action. The defendant's right to appeal shall not be deprived under any pretext.

Article 123 — Where a local people's procuratorate at any level considers that a judgment or ruling of first instance of a people's court at the same level is indeed erroneous, it shall file a protest with the people's court at the next higher level. The period for filing an appeal against a judgment shall be ten days, and the period for filing an appeal against a ruling shall be five days, calculated from the day after the receipt of the written judgment or ruling.

Article 124 — Where a defendant, private prosecutor, plaintiff or defendant in an incidental civil action files an appeal through the people's court that originally tried the case, the people's court that originally tried the case shall, within three days, transfer the petition of appeal together with the case file and evidence to the people's court at the next higher level, and serve copies of the petition of appeal on the people's procuratorate at the same level and the opposing party.

Article 125 — The people's court of second instance shall conduct a comprehensive review of the facts found and the application of law in the judgment of first instance, and shall not be limited by the scope of the appeal or protest. Where a case is appealed by co-defendants, the entire case shall be tried and dealt with.

Article 126 — After the people's court of second instance has tried a case of appeal or protest against a judgment of first instance, it shall handle the case in accordance with the following circumstances: where the original judgment found the facts correctly and correctly applied the law, and the sentence was appropriate, the appeal or protest shall be rejected and the original judgment upheld; where the original judgment correctly found the facts but erroneously applied the law, or the sentence was inappropriate, the judgment shall be modified; where the facts in the original judgment were unclear or the evidence was insufficient, the original judgment may be modified after the facts are ascertained, or the original judgment may be revoked and the case remanded to the people's court that originally tried the case for retrial; or where the people's court of first instance violated the litigation procedures prescribed by law, which may have affected the correctness of the judgment, the original judgment shall be revoked and the case shall be remanded to the people's court that originally tried the case for retrial.

Article 127 — The trial of an appeal or protest case by the people's court of second instance shall be completed within two months from the date of accepting the case. For cases where the death penalty may be imposed or incidental civil actions are involved, or in any of the circumstances specified in Article 66 of this Law, an extension of two months may be granted upon the decision or approval of the higher people's court of the province, autonomous region, or municipality directly under the Central Government; where a further extension is required under special circumstances, it shall be submitted to the Supreme People's Court for approval.

Chapter IV — Procedure for Review of Death Sentences

Article 128 — Death sentences shall be subject to approval by the Supreme People's Court, except for those imposed by the Supreme People's Court in accordance with law. The Supreme People's Court may, when necessary, authorize the higher people's courts of provinces, autonomous regions, and municipalities directly under the Central Government to exercise the power of approving death sentences for cases of crimes seriously endangering public security and social security.

Article 129 — Where an intermediate people's court imposes a death sentence with a two-year reprieve, the sentence shall be subject to approval by a higher people's court. The collegial panel formed by three judges shall review the case. Where the collegial panel considers it necessary, it may interrogate the defendant.

Article 130 — When the Supreme People's Court reviews a death sentence case, it shall form a collegial panel of three judges to conduct the review. The Supreme People's Court, in reviewing a death sentence case, shall make a ruling on whether to approve or disapprove the death sentence. Where it disapproves the death sentence, it may remand the case for retrial or modify the judgment.

Chapter V — Trial Supervision Procedure

Article 131 — Where a party, his legal representative, or his close relative files a complaint against a legally effective judgment or ruling, the people's court or people's procuratorate shall handle the complaint in accordance with law, and the execution of the judgment or ruling shall not be suspended. Where the complaint falls under any of the following circumstances, the people's court shall retry the case: there is new evidence proving that the facts found in the original judgment or ruling are indeed erroneous and may affect the conviction or sentencing; the evidence on which the conviction and sentencing are based is unreliable or insufficient, shall be excluded in accordance with law, or there are contradictions between the main evidence proving the facts of the case; the application of law in the original judgment or ruling is indeed erroneous; a violation of the litigation procedures prescribed by law may have affected the fairness of the trial; or the judicial officers committed acts of embezzlement, bribery, malpractices for personal gain, or perversion of law in handling the case.

Article 132 — Where the president of a people's court at any level discovers errors in a legally effective judgment or ruling of his court in the finding of facts or the application of law, he shall refer the matter to the judicial committee for handling. The Supreme People's Court shall have the right to retry or order a lower people's court to retry legally effective judgments or rulings of people's courts at any level if it discovers any definite error. Higher people's courts shall have the right to retry or order lower people's courts to retry legally effective judgments or rulings of lower people's courts if they find any definite error. The Supreme People's Procuratorate shall have the right to file a protest in accordance with the trial supervision procedure against a legally effective judgment or ruling of a people's court at any level if it discovers any definite error in the finding of facts or application of law. The people's court shall retry the case in which a protest was filed by the people's procuratorate.

Part IV — Execution

Article 133 — A judgment or ruling shall be executed after it becomes legally effective. The following judgments and rulings are legally effective: those for which no appeal or protest has been filed within the statutory period; final judgments and rulings; and death sentences approved by the Supreme People's Court and death sentences with a two-year reprieve approved by a higher people's court.

Article 134 — The people's court shall deliver the legally effective written judgment or ruling to the prison or other executing organ for execution. The defendant who is pronounced not guilty or exempted from criminal punishment shall be released immediately if he is in custody.

Article 135 — Where a criminal sentenced to death with immediate execution is to be executed, the president of the Supreme People's Court shall sign and issue the order for execution of the death sentence. After receiving the order for execution of the death sentence from the Supreme People's Court, the lower people's court shall deliver it to the executing organ for execution within seven days. Before executing the death sentence, the executing organ shall notify the people's procuratorate at the same level to send personnel to supervise the execution. The death sentence shall be executed by shooting, injection, or other methods.

Article 136 — Where a criminal sentenced to death with a two-year reprieve shows genuine repentance during the period of reprieve, he shall be commuted to life imprisonment upon the expiration of the two-year period. Where he shows genuine repentance and performs meritorious service, he shall be commuted to fixed-term imprisonment of not less than twenty-five years upon the expiration of the two-year period. Where the circumstances are serious and the crime is committed intentionally and verified to be true, the death sentence shall be executed upon the approval of the Supreme People's Court.

Article 137 — The prison and other executing organs shall execute criminal punishments in strict accordance with the law. The people's procuratorate shall exercise supervision over the execution of criminal punishments. Where it discovers any violation of law, it shall notify the executing organ to make rectification.

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Part V — Special Procedures

Chapter I — Procedure for Juvenile Delinquency Cases

Article 138 — The principle of education, persuasion, and rehabilitation shall apply, with education being the primary approach and punishment as a supplement, in handling juvenile delinquency cases. In handling juvenile delinquency cases, the people's courts, people's procuratorates, and public security organs shall ensure that juveniles exercise their procedural rights and receive legal aid. They shall be handled by judges, procurators, and investigators who are familiar with the psychological and physiological characteristics of juveniles.

Article 139 — When interrogating a juvenile criminal suspect or defendant, the legal representative shall be notified to be present. Where it is impossible to notify the legal representative, or the legal representative is unable to be present or is a co-offender, other adult relatives, a representative of the school, work unit, or basic-level organization of the place of residence, or a guardian may also be notified to be present, and the relevant circumstances shall be recorded. The legal representative present may exercise the procedural rights on behalf of the juvenile criminal suspect or defendant.

Article 140 — Where a juvenile defendant has not entrusted a defender, the people's court, people's procuratorate, or public security organ shall notify the legal aid institution to designate a lawyer to provide defense for him. Where a juvenile criminal suspect or defendant is being investigated, prosecuted, or tried, he shall be separately detained, separately managed, and separately educated from adults.

Chapter II — Procedure for Publicly Prosecuted Cases Where Parties Have Reached Settlement

Article 141 — In the following public prosecution cases, where the criminal suspect or defendant has sincerely repented and, through means such as compensation for losses and an apology, has obtained the victim's forgiveness, and the victim voluntarily agrees to a settlement, the parties may reach a settlement: where the case arises from a civil dispute and the suspected crime falls under Chapters IV and V of the Specific Provisions of the Criminal Law, and the crime may be sentenced to fixed-term imprisonment of not more than three years; or where the crime is one of negligence other than the crime of dereliction of duty, and the crime may be sentenced to fixed-term imprisonment of not more than seven years. Where a criminal suspect or defendant has intentionally committed a crime within the past five years, the procedures prescribed in this Chapter shall not apply.

Article 142 — Where the parties have reached a settlement, the public security organ, people's procuratorate, or people's court shall hear the opinions of the parties and other relevant persons, examine the voluntariness and legality of the settlement, and prepare a settlement agreement. The public security organ may propose a lenient handling to the people's procuratorate. The people's procuratorate may propose a lenient punishment to the people's court. For minor crimes that do not require criminal punishment, a decision not to prosecute may be made. The people's court may impose a lighter punishment on the defendant in accordance with law.

Chapter III — Trial in Absentia Procedure

Article 143 — Where a defendant in a case of corruption, bribery, or a crime seriously endangering state security or terrorist activities escapes abroad, and the people's procuratorate considers that the facts of the crime have been ascertained, the evidence is reliable and sufficient, and criminal liability should be pursued in accordance with law, the people's procuratorate may initiate a public prosecution in the people's court. Where the people's court, after examination, finds that the charges in the bill of prosecution are clearly supported by the facts of the crime, it shall decide to open a court session for trial. Where a defendant in the circumstances specified in the preceding paragraph has not appeared in court, the people's court shall confiscate his illegal gains and other property involved in the case in accordance with law, or order him to

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return compensation to the victim in accordance with law.

Article 144 — Where a defendant is unable to appear in court due to serious illness, and the trial is suspended for more than six months, and the defendant still cannot appear in court, and the defendant applies or agrees to resume the trial, the people's court may try the case in the defendant's absence and render a judgment in accordance with law. The defendant's property involved in the case shall be disposed of in accordance with law.

Chapter IV — Procedure for Confiscation of Illegal Gains in Cases Where the Criminal Suspect or Defendant Escapes or Dies

Article 145 — Where a criminal suspect or defendant in a case of corruption, bribery, terrorist activities, or other major crimes escapes and cannot be brought to justice one year after a wanted order has been issued, or where a criminal suspect or defendant dies, and his illegal gains and other property involved in the case shall be recovered in accordance with the Criminal Law, the people's procuratorate may file an application with the people's court for confiscation of the illegal gains. Where the public security organ considers that the circumstances specified in the preceding paragraph exist, it shall prepare a written opinion on confiscation of illegal gains and transfer it to the people's procuratorate.

Article 146 — The people's court shall, within thirty days from the date of accepting an application for confiscation of illegal gains, issue a public announcement. The period of the public announcement shall be six months. The close relatives of the criminal suspect or defendant and other interested parties shall have the right to apply to participate in the proceedings, or may entrust agents ad litem to participate in the proceedings.

Chapter V — Procedure for Compulsory Medical Treatment of Mentally Ill Persons Who Have Committed Violent Acts Without Criminal Liability

Article 147 — Where a mentally ill person commits violent acts that endanger public security or seriously endanger the personal safety of citizens, and is not held criminally liable after expert evaluation in accordance with the statutory procedures, and there is a likelihood that he will continue to endanger society, compulsory medical treatment may be imposed.

Article 148 — The people's courts shall form a collegial panel to try the procedure for compulsory medical treatment. Where the people's court decides to impose compulsory medical treatment on a mentally ill person, the guardian of the mentally ill person or a close relative may apply for the lifting of the compulsory medical treatment. The people's court shall examine the application and decide whether to lift the compulsory medical treatment.

Supplementary Provisions

Article 149 — The security departments of the armed forces shall exercise the power of investigation over criminal cases occurring within the armed forces. Chinese prisons shall exercise the power of investigation over criminal cases committed by criminals within the prisons. The handling of criminal cases by the security departments of the armed forces and by prisons shall be governed by the relevant provisions of this Law.

Article 150 — This Law shall take effect as of January 1, 1980.

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