Criminal Procedure Law of the PRC

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Chapter I — General Provisions

Article 1 — This Law is enacted in accordance with the Constitution for the purposes of ensuring the correct implementation of criminal law, punishing crimes, protecting the people, safeguarding national security and public security, and maintaining the socialist social order.

Article 2 — The tasks of the Criminal Procedure Law of the People's Republic of China are to ensure that the facts of crimes are ascertained in a timely and accurate manner, that the law is correctly applied, that criminals are punished, and that innocent people are not subject to criminal prosecution; to educate citizens to conscientiously abide by the law and 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 authorities shall be responsible for the investigation, detention, execution of arrests, and preliminary examination in criminal cases. People's procuratorates shall be responsible for the procuratorial work, the approval of arrests, the investigation and initiation of public prosecution of cases directly accepted by procuratorial organs. People's courts shall be responsible for adjudication. Except as specially provided by law, no other authority, organization, or individual shall have the right to exercise such powers.

Article 4 — In conducting criminal proceedings, the people's courts, people's procuratorates, and public security authorities shall strictly abide by the relevant provisions of this Law and other laws.

Article 5 — The people's courts shall exercise judicial power independently in accordance with the provisions of law, and the people's procuratorates shall exercise procuratorial power independently in accordance with the provisions of law, and shall be free from interference by administrative organs, social organizations, or individuals.

Article 6 — In conducting criminal proceedings, the people's courts, people's procuratorates, and public security authorities must rely on the masses, base themselves on facts, and take law as the criterion. All citizens are equal in the application of 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 authorities shall divide responsibilities, coordinate with each other, and check each other to ensure the accurate and effective implementation of law.

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

Article 9 — Citizens of all ethnic groups shall have the right to use their own spoken and written languages in court proceedings. The people's courts, people's procuratorates, and public security authorities shall provide interpretation for participants in proceedings who are not familiar with the spoken and written languages commonly used in the locality.

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Article 10 — The people's courts shall implement a system of two instances, with the second instance being final.

Article 11 — The people's courts shall adjudicate cases in open session, except as otherwise provided by this Law. A defendant shall have the right to defense, and the people's courts shall have the obligation to ensure that the defendant obtains defense.

Article 12 — No person shall be found guilty without being adjudicated by a people's court in accordance with the law.

Article 13 — The people's courts shall apply the system of people's assessors in accordance with the provisions of this Law.

Article 14 — The people's courts, people's procuratorates, and public security authorities shall protect the defense rights and other procedural rights of criminal suspects, defendants, and other participants in criminal proceedings in accordance with the law. Participants in criminal proceedings shall have the right to file a complaint or accusation against judicial, procuratorial, and investigative personnel who infringe upon their procedural rights or subject them to personal insults.

Chapter II — Jurisdiction

Article 19 — Unless otherwise provided by law, criminal cases shall be subject to the jurisdiction of the people's court in the place where the crime was committed. Where it is more appropriate for the trial to be conducted by the people's court in the place of the defendant's domicile, the people's court in the place of the defendant's domicile may have jurisdiction.

Article 20 — The primary people's courts shall have jurisdiction as courts of first instance over ordinary criminal cases, except for cases that shall be subject to the jurisdiction of the people's courts at higher levels as provided by this Law.

Article 21 — The intermediate people's courts shall have jurisdiction as courts of first instance over the following criminal cases: (1) cases involving crimes against national security or terrorist activities; (2) cases that may involve life imprisonment or the death penalty; and (3) cases in which the defendant is a foreign national or cases in which crimes are committed by a Chinese citizen against a foreign national.

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

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

Chapter III — Withdrawal

Article 29 — Judicial, procuratorial, and investigative personnel shall voluntarily withdraw, and the parties and their legal representatives shall have the right to request their withdrawal, under any of the following circumstances: (1) being a party to the case or a close relative of a party; (2) having an interest in the case or the outcome thereof; (3) having served as a witness, forensic examiner, defender, or agent ad litem in the case; or (4) having other relationships with the parties that may affect the impartial handling of the case.

Article 30 — Judicial, procuratorial, and investigative personnel shall not accept invitations or gifts from the parties to the case or their agents, and shall not meet with the parties or their agents in violation of the provisions. Where a judicial, procuratorial, or investigative personnel violates the provisions of the preceding paragraph, the parties and their legal representatives shall have the right to request his withdrawal.

Chapter IV — Defense and Representation

Article 34 — A criminal suspect shall have the right to entrust a defender from the date of the first interrogation or the date of the compulsory measure taken by the investigative authority. During the investigation, the criminal suspect may only entrust a lawyer as his defender. A defendant shall have the right to entrust a defender at any time. The investigative authority, the people's procuratorate, and the people's court shall timely inform the criminal suspect or defendant of his right to entrust a defender.

Article 35 — Where a criminal suspect or defendant fails to entrust a defender due to financial difficulties or other reasons, the criminal suspect or defendant or his close relatives may apply to a legal aid institution. Where the conditions for legal aid are satisfied, the legal aid institution shall assign a lawyer to provide defense. Where a criminal suspect or defendant is blind, deaf, mute, or a mental patient 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, and public security authority shall notify the legal aid institution to assign a lawyer to provide defense. 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, and public security authority shall notify the legal aid institution to assign a lawyer to provide defense.

Chapter V — Evidence

Article 50 — All materials that can be used to prove the facts of a case are evidence. Evidence includes: (1) physical evidence; (2) documentary evidence; (3) witness testimony; (4) victim statements; (5) statements and exculpations of criminal suspects and defendants; (6) expert opinions; (7) transcripts of inquests, inspections, identifications, and investigative experiments; and (8) audio-visual recordings and electronic data. Evidence must be verified before it can be used as the basis for deciding a case.

Article 51 — In a public prosecution case, the burden of proof of the guilt of the defendant rests with the people's procuratorate. In a private prosecution case, the burden of proof rests with the private prosecutor.

Article 52 — Judicial, procuratorial, and investigative personnel must, in accordance with the statutory procedures, collect all kinds of evidence that can prove the guilt or innocence of the criminal suspect or defendant and the gravity or lightness of the crime. Extorting confessions by torture, collecting evidence by threat, enticement, deception, or other illegal means is strictly prohibited. No person shall be compelled to prove his own guilt.

Article 53 — All case-handling authorities shall follow the principle that a verdict shall be based on evidence and investigation and research. Credence shall not be readily given to oral statements. A defendant shall not be found guilty and sentenced to a criminal punishment solely based on his own statement without other evidence.

Article 56 — Confessions and statements of criminal suspects or defendants obtained by illegal means such as torture, and witness testimony or victim statements obtained by illegal means such as violence or threat shall be excluded. Where physical or documentary evidence is collected illegally and may seriously affect the administration of justice, correction or a reasonable explanation shall be provided; if correction or a reasonable explanation cannot be provided, such evidence shall be excluded.

Chapter VI — Compulsory Measures

Article 66 — The people's courts, people's procuratorates, and public security authorities may, in light of the circumstances of a case, issue a warrant to compel the appearance, release a criminal suspect or defendant on bail pending trial, or place him under residential surveillance.

Article 67 — The people's courts, people's procuratorates, and public security authorities may release a criminal suspect or defendant on bail pending trial under any of the following circumstances: (1) the person may be sentenced to public surveillance, criminal detention, or an additional penalty independently; (2) the person may be sentenced to a fixed-term imprisonment or a heavier penalty but release on bail would not

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pose a danger to society; (3) the person should be arrested but suffers from a serious illness, is a pregnant woman, or is a woman breast-feeding her own baby; or (4) the detention period has expired and the case remains pending.

Article 80 — Where there is evidence to prove the facts of a crime and the criminal suspect or defendant may be sentenced to a fixed-term imprisonment or a heavier punishment, and measures such as release on bail pending trial are insufficient to prevent the occurrence of danger to society, the person shall be arrested.

Chapter VII — Incidental Civil Actions

Article 101 — Where a victim has suffered material loss as a result of the defendant's criminal act, he shall have the right to file an incidental civil action during the criminal proceedings. Where the victim is deceased or has lost capacity for civil conduct, his legal representative or close relatives shall have the right to file an incidental civil action. Where state property or collective property has suffered losses, the people's procuratorate may file an incidental civil action when initiating a public prosecution.

Chapter VIII — Time Periods and Service

Article 105 — Time periods shall be calculated by the hour, day, and month. The first hour or day of a time period shall not be counted. Where a time period is calculated by the month, the corresponding date of the expiration month shall be the expiration date; where there is no corresponding date in the expiration month, the last day of that month shall be the expiration date. Where the last day of a time period falls on a holiday, the first working day following the holiday shall be the expiration date. Statutory time periods shall not include time spent on travel. Appeals or other documents that are mailed before the expiration of the time period shall not be deemed to be beyond the time limit.

Chapter IX — Initiation of a Case

Article 109 — Public security authorities or people's procuratorates that discover facts of a crime or criminal suspects shall initiate a case for investigation within the scope of their jurisdiction.

Article 110 — Any entity or individual that discovers facts of a crime or criminal suspects shall have the right and obligation to report the case or provide information to the public security authorities, people's procuratorates, or people's courts. A victim shall have the right to report a case or file an accusation with the public security authorities, people's procuratorates, or people's courts against the person who infringes upon his personal or property rights.

Article 112 — The people's courts, people's procuratorates, or public security authorities shall, within the scope of their jurisdiction, promptly examine the materials provided by the reporter, informant, accuser, and the person who voluntarily surrenders. Where it is believed that there are facts of a crime requiring criminal liability, a case shall be initiated.

Chapter X — Investigation

Article 115 — Public security authorities shall conduct investigation of criminal cases that have been initiated, and shall collect and obtain evidence that proves the guilt or innocence of the criminal suspect and the gravity or lightness of the crime. Active criminals or major suspects may be detained in advance in accordance with the law, and criminal suspects who should be arrested shall be arrested in accordance with the law.

Article 118 — When interrogating a criminal suspect, the investigators shall first ask the criminal suspect whether he has committed any criminal act, allow him to state the circumstances of his guilt or explain his innocence, and then ask him questions. The criminal suspect shall truthfully answer the questions put to him by the investigators, but shall have the right to refuse to answer questions irrelevant to the case. The

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investigators shall inform the criminal suspect of his procedural rights and of the legal provisions that truthfully confessing his crime may result in a lenient punishment.

Article 154 — The period of custodial interrogation for investigation after arrest shall not exceed two months. Where the case is complex and cannot be concluded upon the expiration of the time limit, an extension of one month may be granted upon approval by the people's procuratorate at the next higher level.

Chapter XI — Initiation of Public Prosecution

Article 169 — All cases requiring public prosecution shall be examined and decided by the people's procuratorates.

Article 172 — The people's procuratorate shall, within one month after receiving the case file transferred for examination and prosecution, make a decision; for a major or complex case, an extension of 15 days may be granted. Where a criminal suspect has admitted guilt and accepted punishment and meets the conditions for the application of expedited trial procedures, the decision shall be made within ten days; where the criminal suspect may be sentenced to a fixed-term imprisonment exceeding one year, the time limit may be extended to 15 days.

Article 176 — Where the people's procuratorate believes that the facts of the crime of the criminal suspect have been ascertained and the evidence is reliable and sufficient, and criminal liability should be pursued in accordance with the law, it shall initiate a public prosecution with the people's court in accordance with the provisions on trial jurisdiction.

Chapter XII — Trial Procedures

Article 186 — The people's court shall, after examining a public prosecution case, decide to hold a court session for trial if the indictment contains clear facts of the alleged crime.

Article 190 — When a court session opens, the presiding judge shall ascertain whether all the parties are present and announce the subject matter of the case; announce the roll of the judicial, procuratorial, and other participants in the court proceedings; inform the parties of their right to apply for withdrawal of any member of the collegial panel, court clerk, or public prosecutor; and inform the defendant of his procedural rights.

Article 200 — After the defendant makes his final statement, the presiding judge shall announce an adjournment, and the collegial panel shall conduct its deliberations and render the following judgments based on the facts and evidence that have been ascertained and in accordance with the relevant provisions of law: (1) where the facts of the case are clear, the evidence is reliable and sufficient, and the defendant is found guilty in accordance with the law, a guilty verdict shall be rendered; (2) where the defendant is found not guilty in accordance with the law, a not-guilty verdict shall be rendered; or (3) where the evidence is insufficient to find the defendant guilty, and the defendant cannot be found guilty, a not-guilty verdict shall be rendered on the ground that the evidence is insufficient to support the charges and the alleged crime is not established.

Article 222 — For cases under the jurisdiction of the primary people's courts where the criminal suspect or defendant may be sentenced to a criminal punishment of not more than three years of fixed-term imprisonment, the facts of the case are clear, the evidence is reliable and sufficient, and the defendant admits guilt and accepts punishment and agrees to the application of expedited trial procedures, the expedited trial procedures may be applied, and the trial shall be conducted by a single judge alone. Where the people's procuratorate recommends the application of expedited trial procedures when initiating a public prosecution, the people's court shall decide whether to adopt the recommendation after examination.

Chapter XIII — Procedure for Trial Supervision

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Article 252 — A party, his legal representative, or his close relative may file a petition with the people's court or the people's procuratorate against a legally effective judgment or ruling, but the execution of the judgment or ruling shall not be suspended.

Article 253 — The people's court shall retry a case if the petition filed by the party, his legal representative, or his close relative falls under any of the following circumstances: (1) there is new evidence proving that the facts found in the original judgment or ruling are indeed erroneous, which may affect conviction or sentencing; (2) the evidence on which the conviction and sentencing are based is unreliable or insufficient, should be excluded in accordance with the law, or there is a contradiction between the main evidence proving the facts of the case; (3) the application of law in the original judgment or ruling is indeed erroneous; or (4) judicial personnel committed graft, bribery, malpractice, or perverted the law in handling the case.

Chapter XIV — Execution

Article 259 — Judgments and rulings shall be executed after they become legally effective. The following judgments and rulings are legally effective: (1) judgments and rulings that have not been appealed or protested within the statutory time limit; (2) final judgments and rulings; and (3) judgments of the Supreme People's Court and judgments of the death penalty approved by the Supreme People's Court.

Article 260 — Where a defendant in custody is given a not-guilty verdict or exempted from criminal punishment in the first-instance judgment, he shall be released immediately after the judgment is pronounced.

Chapter XV — Special Procedures

Article 277 — Where the public security authority, the people's procuratorate, or the people's court discovers in the course of handling a case that the criminal suspect or defendant has evaded justice or died, and an application for confiscation of illegal gains should be filed in accordance with the provisions of the Criminal Law, the people's procuratorate may file an application for confiscation of illegal gains with the people's court. Where a relatively major crime endangering national security or terrorist activities is committed and the criminal suspect or defendant has evaded justice and cannot be brought to the case after one year, or the criminal suspect or defendant has died, and the illegal gains and other property involved in the case shall be recovered in accordance with the provisions of the Criminal Law, the people's procuratorate may file an application for the confiscation of illegal gains with the people's court.

Article 290 — This Law shall come into effect on the date of its promulgation. The revised version shall come into effect on October 26, 2018.

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