# Law of the PRC on Criminal Procedure

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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 the Criminal Law, punishing crimes, protecting the people, safeguarding national and public security, and maintaining the order of the socialist society.

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, to apply the law correctly, to punish criminals, to ensure that innocent people are not subject to criminal prosecution, to educate citizens to voluntarily abide by the law, to actively combat 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 the investigation, detention, execution of arrest warrants, and preliminary examination in criminal cases. People's procuratorates shall be responsible for the prosecution, approval of arrest warrants, investigation of cases directly accepted by procuratorial organs, and initiation of public prosecutions. People's courts shall be responsible for adjudication. Unless otherwise specifically provided by law, no other organs, organizations, or individuals shall have the authority to exercise such powers.




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In conducting criminal proceedings, people's courts, people's procuratorates, and public security organs must strictly comply with this Law and the relevant provisions of other laws.

Article 4 — State security organs shall exercise the powers of public security organs in accordance with the provisions of the law in handling cases of crimes endangering state security and shall perform the same functions. The army's security departments shall exercise the powers of investigation in criminal cases occurring within the army. The Chinese coast guard shall perform the investigation powers of public security organs for crimes occurring at sea. People's procuratorates may conduct case-filing reviews of cases investigated and handled by public security organs such as state security organs.

Article 5 — People's courts shall exercise judicial power independently in accordance with the provisions of the law, and people's procuratorates shall exercise prosecutorial power independently in accordance with the provisions of the law, and shall be free from interference by any administrative organ, social organization, or individual.

Article 6 — In conducting criminal proceedings, people's courts, people's procuratorates, and public security organs must rely on the masses, base themselves on facts, and take the law as the criterion. The law shall be applied equally to all citizens, and no privilege shall be permitted before the law.

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

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

Article 9 — Citizens of all ethnicities shall have the right to use their own spoken and written languages in litigation. People's courts, people's procuratorates, and public security organs shall provide interpretation for litigation participants who are not familiar with the spoken and written language in common use in the locality. In areas where ethnic minorities live in compact communities or where multiple ethnic groups live together, trials shall be conducted in the spoken language in common use in the locality, and judgments, notices, and other documents shall be issued in the written language in common use in the locality.

Article 10 — People's courts shall implement a system of final adjudication after two trials.

Article 11 — Trials in people's courts shall be conducted in public, unless otherwise provided by this Law. Accused persons shall have the right to a defense, and people's courts have the obligation to ensure that accused persons obtain a defense.

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

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

Article 14 — People's courts, people's procuratorates, and public security organs shall ensure the procedural rights to which criminal suspects, defendants, and other litigation participants are entitled according to the law.

## Chapter II — Jurisdiction

Article 15 — Basic people's courts shall have jurisdiction over ordinary criminal cases of first instance, except for cases over which jurisdiction is exercised by people's courts at higher levels in accordance with this Law.

Article 16 — Intermediate people's courts shall have jurisdiction over the following criminal cases of first instance: (1) cases endangering state security or involving terrorist activities; (2) cases punishable by life imprisonment or death; and (3) cases involving crimes committed by foreign nationals.

Article 17 — Higher people's courts shall have jurisdiction over major criminal cases of first instance within the entire province or autonomous region or directly governed municipality.

Article 18 — The Supreme People's Court shall have jurisdiction over major criminal cases of first instance within the entire nation.

Article 19 — 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 for the case to be tried by the people's court at the place where the defendant is domiciled, the case may be under the jurisdiction of the people's court at the place where the defendant is domiciled.

Article 20 — People's courts at the same level shall accept criminal cases within the respective jurisdiction prescribed by law. Where a case involves two or more people's courts at the same level over which jurisdiction may be exercised, the case shall be heard by the people's court that first accepted the case. Where necessary, the case may be transferred and heard by the people's court at the place where the principal crime was committed. Where the jurisdiction over a case is disputed, the matter shall be reported to the common superior people's court for designation of jurisdiction.

## Chapter III — Withdrawal

Article 21 — In any of the following circumstances, a judicial officer, prosecutorial officer, or investigator shall voluntarily withdraw, and the parties and their legal representatives shall have the right to request their withdrawal: (1) being a party or a close relative of a party to the case; (2) the person or a close relative of the person has an interest in the case; (3) having served as a witness, expert witness, defender, or agent ad litem in the case; or (4) having any other relationship with a party to the case that may affect the fair handling of the case.

Article 22 — The withdrawal of a judicial officer or prosecutorial officer shall be decided by the president of the court or the chief procurator, respectively. The withdrawal of the president of a court shall be decided by the court's judicial committee. The withdrawal of a chief procurator or an investigator of a public security organ shall be decided by the procuratorial committee of the people's procuratorate.

## Chapter IV — Defense and Representation

Article 23 — A criminal suspect or defendant may, in addition to exercising the right to defend himself, retain one or two persons as defenders. The following persons may be retained as defenders: (1) lawyers; (2) persons recommended by a people's organization or the defendant's employer; and (3) 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 in their personal freedom in accordance with the law shall not serve as defenders.

Article 24 — A criminal suspect shall have the right to retain a defender from the date of the first interrogation by the investigation authority or from the date the compulsory measure is taken against him. During the investigation period, only lawyers may be retained as defenders. A defendant shall have the right to retain a defender at any time.

Article 25 — Where a criminal suspect or defendant fails to retain a defender due to financial hardship or other reasons, the person or a close relative of the person 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 the person.

Where a criminal suspect or defendant is blind, deaf, mute, or is a mental patient who has not completely lost the ability to recognize or control his conduct and has not retained 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 the person. Where a criminal suspect or defendant who may be sentenced to life imprisonment



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or death has not retained 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 the person.

Article 26 — In a plea leniency case, where the criminal suspect or defendant has not retained a defender, the people's court, people's procuratorate, or public security organ shall notify the legal aid institution to designate a duty lawyer to provide legal assistance such as legal advice, procedural choice advice, and application for change of compulsory measures.

## Chapter V — Evidence

Article 27 — All facts that can be used to prove the circumstances of a case are evidence. Evidence includes the following: (1) physical evidence; (2) documentary evidence; (3) witness testimony; (4) victim statements; (5) statements and defenses of criminal suspects and defendants; (6) expert opinions; (7) transcripts of inspection, examination, identification, and investigative experiment; 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 28 — The burden of proof in a public prosecution case shall be borne by the people's procuratorate, and the burden of proof in a private prosecution case shall be borne by the private prosecutor. No person shall be compelled to prove his own guilt. In sentencing all cases, emphasis shall be placed on evidence, investigation and research, and credence shall not be readily given to confessions. Where a defendant is tried solely on the basis of his confession without other evidence, the defendant shall not be found guilty and sentenced; where there is no confession from the defendant and the evidence is reliable and sufficient, the defendant may be found guilty and sentenced.

Article 29 — Confessions of criminal suspects and defendants and witness testimony and victim statements collected by illegal means such as torture, threat, enticement, or deceit shall be excluded. Where physical evidence or documentary evidence is collected in violation of statutory procedures and may seriously affect the fairness of justice, it shall be supplemented and corrected or a reasonable explanation shall be provided; if such supplementation, correction, or reasonable explanation cannot be made, the evidence shall be excluded.

## Chapter VI — Compulsory Measures

Article 30 — People's courts, people's procuratorates, and public security organs may, according to the circumstances of the case, issue a summons for detention, release a criminal suspect or defendant on bail pending trial, or place him under residential surveillance. A criminal suspect or defendant who is on bail pending trial or under residential surveillance shall not interrupt the investigation, prosecution, or trial of the case. If a criminal suspect or defendant who has been bailed pending trial or placed under residential surveillance violates the relevant provisions, he may be arrested in accordance with the law.

Article 31 — People's courts, people's procuratorates, and public security organs shall not subject criminal suspects or defendants to detention by summons for detention for a continuous period of more than 12 hours; where the circumstances of the case are particularly serious or complex and detention or arrest is required, the continuous period of detention by summons for detention shall not exceed 24 hours. Criminal suspects or defendants shall not be detained in disguised form by consecutive summons for detention.

Article 32 — A people's court, people's procuratorate, or public security organ may place a criminal suspect or defendant under residential surveillance under any of the following circumstances: (1) suffering from a serious illness and unable to take care of himself; (2) a woman who is pregnant or breastfeeding her own infant; (3) being the sole caregiver of a person unable to take care of himself; (4) the case having special circumstances or the need of handling the case making residential surveillance more appropriate; or (5) the detention period having expired and the case not having been concluded, making it necessary to adopt residential surveillance measures.



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Article 33 — The maximum period of residential surveillance shall not exceed six months. During the residential surveillance period, the investigation, prosecution, and trial of the case shall not be interrupted. Where residential surveillance is no longer necessary, the residential surveillance shall be promptly lifted.

Article 34 — Where there is evidence to prove the facts of a crime and the criminal suspect or defendant may be sentenced to a punishment of imprisonment or a heavier penalty, and granting a bail pending trial or residential surveillance is insufficient to prevent the occurrence of the following social dangers, the person shall be arrested: (1) being likely to commit a new crime; (2) being a danger to state security, public security, or social order; (3) being likely to destroy or fabricate evidence, or interfere with witness testimony, or collude confessions; (4) being likely to retaliate against the victim, informant, or accuser; or (5) attempting suicide or flight.

## Chapter VII — Incidental Civil Actions

Article 35 — Where a victim has suffered material losses as a result of the criminal act of the defendant, he shall have the right to file an incidental civil action during the course of the criminal proceedings. Where the victim is deceased or has lost capacity, his legal representative or close relative 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 of Process

Article 36 — Time periods shall be calculated by hours, days, and months. The hour and day from which the period begins shall not be counted in the period. Where the time limit expires on a statutory holiday, the first working day after the holiday shall be the expiration date of the time limit. Litigation documents sent by mail shall be deemed to have been delivered on the date of mailing as evidenced by the postmark.

## Chapter IX — Case Filing

Article 37 — Public security organs or people's procuratorates shall, within their jurisdiction, examine in a timely manner the materials provided by the accuser, informant, or person who voluntarily surrenders, or the clues of criminal acts discovered by the public security organs or people's procuratorates. Where facts of a crime are believed to exist and criminal liability should be investigated, a case shall be filed; where facts of a crime are not believed to exist, or the facts of the crime are obviously minor and criminal liability need not be investigated, a case shall not be filed, and the accuser shall be notified of the reasons for not filing the case.

## Chapter X — Investigation

Article 38 — Public security organs shall conduct investigations and collect and obtain evidence proving the guilt or innocence of the criminal suspect and the gravity or lightness of the crime. Illegal methods such as torture, threat, enticement, or deceit shall not be used during the investigation process. During the investigation period, where a public security organ discovers that the criminal suspect should not be held criminally liable, it shall dismiss the case.

Article 39 — During the investigation period after a criminal suspect is subjected to a compulsory measure for the first time or is interrogated for the first time, the defense lawyer may meet and communicate with the criminal suspect in custody. Where a defense lawyer requests to meet with a criminal suspect in custody on bail pending trial, the public security organ shall arrange the meeting in a timely manner, which shall be held within 48 hours at the latest.

Article 40 — Investigators may conduct an inquest or inspection of sites, articles, persons, or corpses related to the crime. When necessary, experts may be assigned or retained to conduct an inquest or inspection under the auspices of the investigators. A criminal suspect may be compelled to undergo a physical examination when he refuses to do so.

Article 41 — When an investigator deems it necessary, a search may be conducted with the approval of the person in charge of the public security organ. When conducting a search, a search warrant must be presented to the person being searched. In the event of an emergency during the execution of an arrest or detention, a search may be conducted without a search warrant.

## Chapter XI — Initiation of Public Prosecution

Article 42 — All cases requiring the initiation of a public prosecution shall be examined and decided by the people's procuratorate. Where a people's procuratorate, after examining a case, believes that the facts of the crime are clear, the evidence is reliable and sufficient, and criminal liability should be investigated in accordance with the law, it shall initiate a public prosecution with the people's court.

Article 43 — In a plea leniency case, where the criminal suspect voluntarily admits guilt and accepts punishment, the people's procuratorate shall inform the criminal suspect of his procedural rights and the legal consequences of plea leniency, and shall hear the opinions of the criminal suspect, defender, or duty lawyer. Where the criminal suspect voluntarily admits guilt and agrees to the sentencing recommendation proposed by the people's procuratorate, a plea affidavit shall be signed.

Article 44 — Where a criminal suspect falls under any of the circumstances provided for in the Criminal Law under which criminal liability need not be investigated or may be exempted, the people's procuratorate may make a decision not to prosecute. Where a victim in a case not prosecuted files a lawsuit with the people's court, the people's court shall accept the case.

## Chapter XII — Trial of First Instance

Article 45 — After examining a case in which a public prosecution has been initiated, the people's court shall decide to open a court session for trial if the accusation in the indictment contains clear facts of the crime. Before opening a court session, the people's court shall form a collegial panel.

Article 46 — Trials of first instance in basic people's courts and intermediate people's courts shall be conducted by a collegial panel composed of three judges or of a combination of judges and people's assessors totaling three or seven persons. Trials of first instance in higher people's courts shall be conducted by a collegial panel composed of three, five, or seven judges or a combination of judges and people's assessors. Trials of first instance in the Supreme People's Court shall be conducted by a collegial panel composed of three to seven judges.

Article 47 — After opening a court session, the people's court shall conduct trial in accordance with the sequence provided by law, including court investigation, court debate, and the defendant's final statement. After court debate, the collegial panel shall deliberate and render a judgment.

Article 48 — In a plea leniency case, the people's court shall, in accordance with the law, examine the voluntariness of the defendant's admission of guilt and acceptance of punishment and the truthfulness and legality of the content of the plea affidavit. Where the people's court, after trial, finds the sentencing recommendation appropriate, it shall adopt the people's procuratorate's sentencing recommendation, and the plea leniency case may be tried under expedited procedures.

Article 49 — Where the defendant in a case over which a basic people's court has jurisdiction may be sentenced to a criminal punishment of not more than three years of 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 procedures, the expedited trial procedure may be applied, and the trial shall be conducted by a single judge alone. Where the people's procuratorate proposes the application of the expedited trial procedure when initiating a public prosecution, the people's court, after examining the case, shall decide whether to approve it.



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Article 50 — Where a people's court applies the expedited trial procedure to hear a case, it shall conclude the trial within 10 days after acceptance, and within 15 days at the latest where the defendant may be sentenced to a penalty of more than one year of imprisonment.

## Chapter XIII — Trial of Second Instance

Article 51 — A defendant, a private prosecutor, or their legal representatives who refuse to accept a judgment or ruling of first instance rendered by a local people's court at any level shall have the right to appeal in writing or orally to the people's court at the next higher level. A defender or close relative of the defendant may, with the consent of the defendant, file an appeal. A party to an incidental civil action and his legal representative may appeal against the portion of the judgment or ruling of first instance relating to the incidental civil action.

Article 52 — A local people's procuratorate at any level that considers that a judgment or ruling of first instance rendered by a people's court at the same level is erroneous shall file a protest with the people's court at the next higher level. The time limit for filing an appeal against a judgment shall be 10 days, and for filing an appeal against a ruling shall be five days, calculated from the day after the date of receipt of the judgment or ruling.

Article 53 — A people's court of second instance hearing an appeal or protest case shall form a collegial panel. After examining the case, it shall handle the case in accordance with the following circumstances: (1) where the original judgment was correct in the determination of facts and application of law and the sentence was appropriate, the appeal or protest shall be rejected and the original judgment upheld; (2) where the original judgment was correct in the determination of facts but erroneous in the application of law or inappropriate in sentencing, the judgment shall be modified; or (3) where the facts in the original judgment are unclear or evidence is insufficient, the judgment may be modified upon ascertaining the facts after investigation, or the original judgment may be reversed and the case remanded for retrial.

## Chapter XIV — Review of Death Sentences

Article 54 — Death sentences shall be subject to approval by the Supreme People's Court, unless otherwise decided by the Supreme People's Court in accordance with the law. A case where the death sentence is suspended for two years may be subject to approval by a higher people's court.

Article 55 — Where the Supreme People's Court reviews a death sentence case, it shall form a collegial panel composed of three judges. Where the Supreme People's Court disapproves the death sentence, it may remand the case for retrial or modify the judgment. Where the Supreme People's Court deems it necessary to hear the defense lawyer's opinion during the review of a death sentence, it shall hear. The Supreme People's Procuratorate may submit its opinion to the Supreme People's Court during the review, and the Supreme People's Court shall notify the Supreme People's Procuratorate of the review result.

## Chapter XV — Trial Supervision Procedure

Article 56 — A party or his legal representative or close relative may file a petition with a people's court or people's procuratorate against a judgment or ruling that has become legally effective, but the execution of the judgment or ruling shall not be suspended. Where a party's petition falls under any of the following circumstances, the people's court shall retry the case: (1) there is new evidence proving that the facts determined in the original judgment or ruling are indeed erroneous; (2) the evidence on which the conviction and sentencing are based is unreliable, insufficient, or should be excluded in accordance with the law; (3) the application of law in the original judgment or ruling is indeed erroneous; or (4) judicial personnel committed acts of corruption, bribery, malpractices for personal gain, or perverted the law in the adjudication of the case.



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## Chapter XVI — Execution

Article 57 — Judgments and rulings shall be executed after they become legally effective. The following judgments and rulings are legally effective judgments and rulings: (1) judgments and rulings against which no appeal or protest has been filed within the statutory time limit; (2) final judgments and rulings; and (3) death sentences approved by the Supreme People's Court.

Article 58 — The execution of criminal punishments shall be subject to supervision by people's procuratorates. Where a people's procuratorate considers that a ruling of a people's court ordering reduction of a sentence or parole is improper, it shall, within 20 days after receiving a copy of the ruling, submit a written opinion to the people's court for correction.

## Chapter XVII — Special Procedures

Article 59 — Where a criminal suspect or defendant escapes or dies and the illegal income or other property involved in the case shall be recovered in accordance with the Criminal Law, and the people's procuratorate applies to the people's court for confiscation of the illegal income, the people's court shall, after accepting the case, issue a public announcement within 30 days. For cases of serious crimes endangering state security or terrorist activities where the criminal suspect or defendant has escaped and cannot be brought to justice after one year, or where the criminal suspect or defendant has died, the illegal income and other property involved shall be confiscated.

Article 60 — Where a mental patient who has committed violent acts endangering public security or seriously endangering the personal safety of citizens and who has been exempted from criminal liability after a statutory evaluation procedure continues to be a danger to society, compulsory medical treatment may be carried out. The people's court shall form a collegial panel to try cases of compulsory medical treatment. Where the person subject to compulsory medical treatment or his close relative has the right to apply for release from compulsory medical treatment, the people's court shall make a decision.

Article 61 — Where a criminal suspect or defendant has voluntarily and truthfully confessed the facts of his crime, has no objection to the alleged criminal facts, agrees to the sentencing recommendation proposed by the people's procuratorate, and has signed a plea affidavit, the case may be handled in accordance with the law through the plea leniency system.

## Chapter XVIII — Supplementary Provisions

Article 62 — This Law shall come into force on the date of promulgation. The Criminal Procedure Law of the People's Republic of China (2012 Revision) shall be repealed simultaneously.

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