Legal Aid Law of the PRC

Dan Young Business Consultancy — www.danyoungcpa.com

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Chapter I — General Provisions

Article 1 — This Law is enacted in accordance with the Constitution for the purposes of regulating and promoting legal aid work, safeguarding the lawful rights and interests of citizens and parties concerned, safeguarding the correct implementation of the law, and upholding social fairness and justice.

Article 2 — For the purposes of this Law, legal aid means a system established by the State to provide free legal services such as legal advice, agency, and criminal defense to citizens with economic difficulties and parties meeting statutory conditions. Legal aid is a public legal service provided by the State.

Article 3 — Legal aid work shall adhere to the leadership of the Communist Party of China, follow the principles of being people-centered, respect and protect human rights, abide by statutory procedures and

requirements, and achieve the unity of legal and social effects.

Article 4 — The people's governments at the county level and above shall incorporate legal aid into their national economic and social development plans, incorporate legal aid funds into the fiscal budget at the corresponding level, and ensure the coordinated development of legal aid undertakings with economic and social development.

Article 5 — The judicial administrative department under the State Council shall direct and supervise the national legal aid work. The judicial administrative departments of the local people's governments at the county level and above shall direct and supervise the legal aid work within their respective administrative areas. Other relevant departments shall, in accordance with their respective functions and duties, provide support and safeguards for legal aid work.

Article 6 — People's courts, people's procuratorates, and public security organs shall, within the scope of their respective functions and duties, safeguard the rights of parties concerned to obtain legal aid in accordance with the law and provide convenience for legal aid personnel in performing their duties.

Article 7 — Lawyers' associations and other social organizations shall, in accordance with their charters, support legal aid work in accordance with the law. Lawyers, notaries, forensic experts, and other legal service practitioners shall perform their legal aid obligations in accordance with the law and provide legal aid services to recipients.

Article 8 — The State shall encourage and support people's organizations, public institutions, and social organizations in providing legal aid through means such as donating property and providing services in accordance with the law. Organizations and individuals that have made outstanding contributions to legal aid work shall be commended and rewarded in accordance with relevant State regulations.

Article 9 — The State shall encourage and support legal service providers such as law firms and notary offices in providing legal aid services. Legal service providers shall support their legal service practitioners in participating in legal aid work.

Article 10 — Legal aid institutions shall organize legal service providers and personnel to provide legal aid services. Legal aid institutions shall be established by the judicial administrative departments of the people's governments at the county level and above. Other relevant departments may establish legal aid workstations based on actual needs.

Chapter II — Institutions and Personnel

Article 11 — Legal aid institutions shall perform the following functions:

(1) Accepting and examining applications for legal aid;

(2) Designating legal service providers and arranging legal service personnel to provide legal aid;

(3) Paying legal aid subsidies;

(4) Managing and supervising legal aid service activities;

(5) Other functions as prescribed by law.

Article 12 — Legal aid institutions shall, in accordance with work needs, arrange for staff with legal professional qualifications to provide legal aid services. Legal aid institutions may procure legal aid services from legal service providers such as law firms and notary offices, and arrange for legal service personnel from these providers to provide legal aid.

Article 13 — Legal aid institutions shall establish a legal aid lawyer resource database. Where conditions permit, legal aid institutions may arrange for lawyers with specialized knowledge and expertise to provide specialized legal aid services.

Article 14 — Legal aid personnel shall perform their legal aid duties in accordance with the law and shall provide recipients with legal services that meet standards. Legal aid personnel shall accept supervision by legal aid institutions and industry associations.

Article 15 — Legal aid personnel shall not collect any property from recipients in the course of providing legal aid services.

Article 16 — Legal aid personnel shall keep confidential the State secrets, commercial secrets, and personal privacy that come to their knowledge in the course of providing legal aid services.

Chapter III — Scope and Forms

Article 17 — Where a citizen with economic difficulties needs agency services for the following matters and has not retained an agent, they may apply for legal aid:

(1) Claims for State compensation in accordance with the law;

(2) Claims for social insurance benefits or social assistance;

(3) Claims for the granting of survivor's pensions or consolation money;

(4) Claims for the payment of alimony, child support, or maintenance;

(5) Claims for labor remuneration or compensation;

(6) Claims for the recognition of citizenship, civil capacity, or incapacity;

(7) Claims for personal injury compensation arising from work-related injuries, traffic accidents, food and drug safety accidents, medical accidents, or environmental pollution;

(8) Claims for the protection of personal rights and interests such as the rights of reputation, honor, and privacy;

(9) Other matters prescribed by laws, regulations, or rules.

Article 18 — Where a party concerned meets the following circumstances and has not retained a defender, the legal aid institution shall provide legal aid:

(1) A criminal suspect or defendant in a case subject to ordinary procedures who has not retained a defender due to economic difficulties;

(2) A criminal suspect or defendant who is blind, deaf, mute, or has a mental disorder that has not yet caused complete loss of the ability to recognize or control their conduct, and who has not retained a defender;

(3) A criminal suspect or defendant who may be sentenced to life imprisonment or death, or a defendant in a death penalty review case, who has not retained a defender;

(4) Other persons prescribed by law.

Article 19 — Legal aid may be provided in the following forms:

(1) Legal advice;

(2) Drafting of legal documents;

(3) Criminal defense and agency;

(4) Agency in civil, administrative, and State compensation proceedings;

(5) Agency in non-litigation matters such as administrative reconsideration and arbitration;

(6) Notarization and forensic appraisal in legal aid cases;

(7) Other forms prescribed by laws, regulations, and rules.

Article 20 — Where a party meets the following circumstances and has not retained an agent ad litem, they may apply for legal aid for matters including claims for State compensation, social insurance benefits, and other matters:

(1) A person receiving minimum living security benefits;

(2) A person in extreme poverty;

(3) Other persons with special hardship as prescribed by the State.

Article 21 — Where a victim of a crime, a private prosecutor in a criminal case, or a plaintiff in an incidental civil action has not retained an agent ad litem due to economic difficulties, they may apply for legal aid.

Article 22 — People's courts, people's procuratorates, and public security organs shall, in accordance with regulations, notify legal aid institutions to designate lawyers to serve as defenders in the following circumstances:

(1) Where a criminal suspect or defendant is a juvenile;

(2) Where a criminal suspect or defendant is blind, deaf, mute, or a person with a mental disorder who has not yet completely lost the ability to recognize or control their conduct;

(3) Where a criminal suspect or defendant may be sentenced to life imprisonment or death;

(4) Where the defendant in a case tried by a provincial-level high court under a death penalty review procedure has not retained a defender.

Article 23 — A legal aid recipient shall have the right to know the progress of the legal aid provided to them and to request replacement of legal aid personnel where there are grounds.

Article 24 — A legal aid recipient shall fulfill the following obligations:

(1) Truthfully stating the facts and circumstances of the case;

(2) Providing relevant evidentiary materials in a timely manner;

(3) Assisting and cooperating with legal aid personnel in investigating the facts of the case.

Article 25 — Where the economic situation of a legal aid recipient changes and no longer meets the criteria for legal aid, the legal aid institution shall terminate legal aid. Where a legal aid recipient obtains legal aid through fraud, the legal aid institution shall terminate legal aid and recover the legal aid expenses.

Chapter IV — Procedures and Implementation

Article 26 — A citizen who requires legal aid may apply to the legal aid institution. An application for legal aid shall be submitted in writing. Where it is genuinely difficult to submit a written application, an oral application may be made, and the legal aid institution shall make a record.

Article 27 — In applying for legal aid, the applicant shall truthfully submit the following materials:

(1) An application for legal aid;

(2) Proof of economic hardship or other materials proving eligibility for legal aid;

(3) Certificates of identity of the applicant;

(4) Materials related to the matters for which legal aid is requested;

(5) Other materials required by the legal aid institution.

Article 28 — Legal aid institutions may verify the economic hardship status of applicants through information-sharing mechanisms or field investigations. Relevant departments, units, and individuals shall provide cooperation.

Article 29 — Where an applicant submits complete application materials, the legal aid institution shall make a decision within seven days of accepting the application. Where the circumstances are complex, the period may be appropriately extended upon approval by the responsible person of the legal aid institution, but the extended period shall not exceed seven days.

Article 30 — Where a legal aid institution decides to provide legal aid, it shall designate legal service providers and arrange legal service personnel to handle the matter within three days of making the decision. The legal aid institution shall notify the applicant in writing of the decision and inform the people's court, people's procuratorate, or public security organ that notified the legal aid institution.

Article 31 — Where an applicant is dissatisfied with a decision of a legal aid institution not to provide legal aid, the applicant may apply to the judicial administrative department that established the legal aid institution for a review within 15 days of receiving the decision. The judicial administrative department shall conduct the review within five days and notify the applicant of the outcome.

Article 32 — Where a legal aid institution designates legal service providers and arranges legal service personnel, it shall consider the nature of the case, the expertise of the legal service personnel, the wishes of the recipient, and other factors.

Article 33 — A recipient may apply to the legal aid institution for the replacement of legal aid personnel where there is evidence proving that the legal aid personnel:

(1) Have improperly failed to perform their duties;

(2) Have disclosed State secrets, commercial secrets, or personal privacy without authorization;

(3) Have solicited or accepted property from the recipient;

(4) Have had other conduct that harms the recipient's rights and interests.

Article 34 — Legal aid personnel shall submit work reports and case closure materials to the legal aid institution in a timely manner upon completion of legal aid services. Legal aid institutions shall organize the review and filing of legal aid cases.

Article 35 — Where a recipient applies for notarization or forensic appraisal in connection with a legal aid matter, the notary office or forensic appraisal institution shall reduce or waive the fees in accordance with relevant regulations.

Article 36 — People's courts, people's procuratorates, and public security organs shall, within the scope of their respective functions and duties, facilitate legal aid personnel in activities such as accessing case files, investigating and collecting evidence, and meeting with parties concerned.

Article 37 — Where legal aid institutions need to access information from relevant departments for the purpose of examining applications for legal aid, the relevant departments shall provide assistance. The State encourages and supports legal aid institutions in employing information technology to facilitate the application and processing of legal aid.

Chapter V — Safeguards and Supervision

Article 38 — The State shall ensure the funding for legal aid. Legal aid funds shall be managed through separate accounting and used exclusively for designated purposes, and shall be subject to supervision by departments of finance and auditing in accordance with the law.

Article 39 — Legal aid institutions shall pay subsidies to legal service personnel for handling legal aid cases in accordance with regulations. The standards for legal aid subsidies shall be reasonably determined by the judicial administrative departments of the people's governments of provinces, autonomous regions, and municipalities directly under the Central Government in conjunction with finance departments at the corresponding level, with reference to local economic and social development levels, legal service fee standards, and legal aid cost expenditures.

Article 40 — Legal aid institutions shall disclose their office addresses, contact information, and working procedures to the public. Legal aid institutions shall establish information management systems for legal aid work and make relevant information public in accordance with regulations.

Article 41 — Legal aid institutions shall supervise the quality of legal aid services. Legal aid institutions may conduct supervision through means such as third-party evaluations, periodic quality inspection of cases, and solicitation of opinions from judicial organs and recipients.

Article 42 — Where a legal aid institution decides to provide legal aid, the judicial administrative department that established it shall, within a prescribed time limit, examine the type of case handled, the reason for providing legal aid, the legal service provider designated, and the legal service personnel assigned.

Article 43 — Judicial administrative departments shall strengthen supervision and management of legal aid services, formulate standards for the quality of legal aid services, and conduct quality assessment of legal aid services through third-party evaluations and other means.

Article 44 — Lawyers' associations shall direct and supervise law firms and lawyers in performing legal aid obligations, and shall include the performance of legal aid obligations in the scope of annual assessments and practice evaluations. Where law firms or lawyers refuse to perform or neglect their legal aid obligations, the lawyers' associations shall impose disciplinary sanctions in accordance with relevant regulations.

Chapter VI — Legal Liability

Article 45 — Where a legal aid institution or its staff commits any of the following acts, the judicial administrative department that established the institution shall order corrections and impose sanctions on the directly responsible persons in charge and other directly responsible persons in accordance with the law:

(1) Refusing to provide legal aid to a person eligible for legal aid without justifiable reasons, or providing legal aid to a person not eligible for legal aid;

(2) Collecting property from recipients;

(3) Engaging in paid legal services;

(4) Encroaching upon, misappropriating, or privately dividing legal aid funds.

Article 46 — Where a legal aid institution conceals, destroys, alters, or fabricates relevant archives and materials, the judicial administrative department shall order it to make corrections and impose sanctions on the directly responsible persons.

Article 47 — Where legal aid personnel collect property from recipients, the judicial administrative department shall order them to return the property and may impose a fine. Where the circumstances are serious, the judicial administrative department shall order the cessation of practice for a period or revoke the practice certificate.

Article 48 — Where legal aid personnel fail to perform their duties in accordance with the law, fail to report on the handling of cases in a timely manner, or fail to submit case closure materials in accordance with regulations, the legal aid institution may make a recommendation for sanctions to the relevant lawyers' association or judicial administrative department.

Source: https://www.danyoungcpa.com/legal-aid-law-prc-2021/

Article 49 — Where a recipient obtains legal aid through fraud, the judicial administrative department shall order the recipient to pay the legal aid expenses already incurred and may impose a fine of not more than three times the said expenses.

Article 50 — Where legal aid work is impeded by disturbing the order of the legal aid institution, insulting, defaming, threatening, or assaulting legal aid personnel, or by other means, the public security organ shall impose penalties in accordance with the law. Where the act constitutes a crime, criminal liability shall be pursued in accordance with the law.

Article 51 — Where a staff member of a State organ responsible for legal aid work abuses their powers, neglects their duties, or engages in malpractice for personal gain, disciplinary action shall be taken in accordance with the law. Where the act constitutes a crime, criminal liability shall be pursued in accordance with the law.

Chapter VII — Supplementary Provisions

Article 52 — The administration of legal aid work of the Chinese People's Liberation Army and the Chinese People's Armed Police Force shall be separately prescribed by the Central Military Commission in accordance with this Law.

Article 53 — This Law shall come into force on January 1, 2022. The Legal Aid Regulations promulgated by the State Council on July 16, 2003 shall be repealed simultaneously.

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