Population and Family Planning 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 bringing about a coordinated development of population, the economy, society, resources and the environment, implementing family planning, safeguarding the legitimate rights and interests of citizens, promoting happiness of families

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and prosperity of the nation and progress of society.

Article 2 — China is a populous country and it is the basic policy of the State to implement family planning. The State shall take comprehensive measures to control the population size and improve the quality of the population. The State shall rely on publicity and education, scientific and technological progress, comprehensive services, and the establishment and improvement of the reward and social security systems to carry out the work of population and family planning.

Article 3 — The work of population and family planning shall be combined with increasing the opportunities for women to receive education and be employed, improving women's health and raising the status of women.

Article 4 — When promoting family planning, people's governments at all levels and their staff shall conduct strict administration in accordance with the law and enforce the law in a civilized manner, and shall not infringe upon the legitimate rights and interests of citizens. The administrative departments of health and family planning and their staff shall be protected by law when performing their official duties in accordance with the law.

Article 5 — The State Council shall exercise leadership over the work of population and family planning throughout the country. Local people's governments at all levels shall exercise leadership over the work of population and family planning within their respective administrative areas.

Article 6 — The administrative department of health and family planning under the State Council shall be responsible for the work of family planning and the work related to population throughout the country. The administrative departments of health and family planning of the local people's governments at or above the county level shall be responsible for the work of family planning and the work related to population within their respective administrative areas. Other relevant departments of the people's governments at or above the county level shall be responsible for the relevant work of population and family planning within their respective scopes of duties.

Article 7 — Public organizations such as trade unions, communist youth leagues, women's federations and associations for family planning shall assist the people's governments in carrying out the work of population and family planning.

Article 8 — The State shall reward organizations and individuals that have made outstanding achievements in the work of population and family planning.

Chapter II — Formulation and Implementation of Population Development Plans

Article 9 — The State Council shall prepare a population development plan and incorporate it into the national economic and social development plan. Local people's governments at or above the county level shall, based on the national population development plan and the population development plan of the people's government at the next higher level, and in light of the local actual circumstances, prepare population development plans for their respective administrative areas and incorporate them into the local economic and social development plans.

Article 10 — People's governments at or above the county level shall, based on the population development plans, formulate implementation plans for population and family planning and organize the implementation thereof. The administrative departments of health and family planning of the people's governments at or above the county level shall be responsible for the routine work of the implementation of the implementation plans for population and family planning.

Article 11 — In the implementation plans for population and family planning, the measures for controlling the population size, improving the quality of the population, strengthening maternal and child health care, and improving the family planning technical services shall be stipulated.

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Article 12 — Villagers' committees and residents' committees shall, in accordance with the law, carry out the work of population and family planning. State organs, the armed forces, public organizations, enterprises and institutions shall carry out the work of population and family planning of their own units.

Article 13 — The work of population and family planning shall be subject to the publicity, education and scientific management of the governments, and to the services for the people. Such work shall be closely coordinated with the mass self-education, self-management and self-service activities.

Article 14 — The floating population's work of family planning shall be managed under the combined leadership of the people's governments of the places where their permanent household registers are kept and those of the places where they currently reside, with the latter bearing the main responsibility.

Chapter III — Regulation of Fertility

Article 15 — Citizens shall have the right to bear children and shall also have the obligation to practice family planning in accordance with the law. Both husband and wife shall bear common responsibility for family planning.

Article 16 — The State encourages citizens to marry and bear children at mature ages. One couple may bear two children. Where the requirements for bearing additional children as prescribed by laws, regulations or provisions are met, an application may be filed for bearing additional children. The specific measures shall be prescribed by the people's congresses or the standing committees thereof of provinces, autonomous regions and municipalities directly under the Central Government. The family planning regulations of ethnic minorities shall also be prescribed by the people's congresses or the standing committees thereof of provinces, autonomous regions and municipalities directly under the Central Government.

Article 17 — Where a couple of reproductive age practices family planning, the State shall provide such couple with the necessary family planning technical services free of charge in accordance with the relevant provisions.

Article 18 — The State shall create the working and living conditions that facilitate the implementation of family planning by individuals and couples.

Article 19 — The State shall establish and improve the pre-marital health care system and the pre-pregnancy health care system to prevent or reduce the occurrence of birth defects and improve the health of newborn babies.

Article 20 — Discrimination against and maltreatment of women who give birth to female babies and of women who suffer from infertility are prohibited. Discrimination against, maltreatment and abandonment of baby girls are prohibited.

Chapter IV — Rewards and Social Security

Article 21 — The State shall, in accordance with the relevant provisions, provide rewards to couples who practice family planning. Couples who bear children in accordance with the provisions of laws and regulations may receive extended maternity leave, paternity leave and other welfare benefits.

Article 22 — The State shall establish and improve the basic old-age insurance, basic medical insurance, maternity insurance, social welfare and other social security systems to promote family planning. The State shall encourage insurance companies to organize insurance programs that facilitate family planning. Where conditions permit, various forms of old-age security programs may be implemented based on the principle of voluntary participation with government guidance among the rural residents who practice family planning.

Article 23 — Local people's governments shall provide necessary assistance in economic matters to rural households that practice family planning and have difficulties in such areas as the arrangement of their production and living, and provide them with preferential treatment.

Article 24 — Local people's governments at all levels shall provide rewards and preferential treatment to the parents of only children, and handle any accidental injuries to or deaths of their only children in accordance with the relevant provisions.

Article 25 — Where a local people's government provides rewards to couples of reproductive age who have voluntarily borne only one child for life in accordance with the law, the couples who have acquired the Honor Certificate for Parents of Only Children shall continue to enjoy the relevant rewards and preferential treatment. Where couples of reproductive age who have acquired the Honor Certificate for Parents of Only Children decide to bear another child, the Honor Certificate for Parents of Only Children shall be canceled and they shall cease to enjoy the relevant rewards and preferential treatment.

Chapter V — Family Planning Technical Services

Article 26 — The State shall establish and improve the pre-marital health care and pre-pregnancy health care systems and the maternal health care system to prevent or reduce the occurrence of birth defects and improve the health of newborn babies. People's governments at all levels shall take measures to guarantee citizens' access to family planning technical services and improve their reproductive health.

Article 27 — Family planning technical service institutions and medical and health care institutions providing family planning technical services shall, within their respective scopes of duties, conduct publicity and education on family planning and the population, provide family planning technical services, and provide consultation and guidance, against the background of the population development plan, with the focus on publicizing and implementing contraceptive measures.

Article 28 — It is strictly prohibited to use ultrasonic technology or other technological means to identify the gender of a fetus for non-medical purposes, and it is strictly prohibited to terminate a pregnancy by artificial means for non-medical purposes on account of the gender of the fetus.

Article 29 — Individuals shall bear the expenses for family planning technical services in accordance with the relevant provisions of the State. The State shall provide free family planning technical services to rural couples of reproductive age who practice family planning, in accordance with the relevant provisions.

Chapter VI — Legal Liability

Article 30 — Where anyone uses ultrasonic technology or other technological means to identify the gender of a fetus for non-medical purposes, or terminates a pregnancy by artificial means for non-medical purposes on account of the gender of the fetus, the administrative department of health and family planning or the administrative department of health shall order the same to make correction and give a warning, confiscate the illegal income; where the amount of such illegal income exceeds 10,000 yuan, a fine of not less than two times but not more than six times the illegal income shall be imposed; where there is no illegal income or the illegal income is less than 10,000 yuan, a fine of not less than 10,000 yuan but not more than 30,000 yuan shall be imposed; where the circumstances are serious, the practicing license shall be revoked. Where a crime is constituted, criminal liability shall be pursued in accordance with the law.

Article 31 — Where anyone discriminates against or maltreats a woman who gives birth to a female baby or a woman who suffers from infertility, the local people's government shall order the same to make correction and impose a public security administration penalty. Where a crime is constituted, criminal liability shall be pursued in accordance with the law.

Article 32 — Where anyone refuses or obstructs the administrative departments of health and family planning and their staff from performing their official duties in accordance with the law, the matter shall be handled in accordance with the provisions of the Law on Public Security Administration Punishments.

Article 33 — Where the staff of State organs commit any of the following acts in the work of family planning and the case constitutes a crime, criminal liability shall be pursued in accordance with the law; where a crime

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is not constituted, an administrative sanction shall be imposed in accordance with the law; and the illegal income, if any, shall be confiscated:

(1) infringing upon the personal rights or property rights of citizens;

(2) abusing power, neglecting duties or engaging in malpractices for personal gains;

(3) soliciting or accepting bribes;

(4) withholding, embezzling, misappropriating or corrupting the funds for family planning or the social maintenance fees; or

(5) making a false report of or concealing or falsifying or refusing to report any population and family planning statistical data.

Chapter VII — Supplementary Provisions

Article 34 — The specific measures for the family planning work of the floating population, the family planning technical services, and the collection and administration of social maintenance fees shall be formulated by the State Council.

Article 35 — The Chinese People's Liberation Army and the Chinese People's Armed Police Forces shall implement this Law, and the specific measures shall be formulated by the Central Military Commission in accordance with this Law.

Article 36 — This Law shall come into force as of September 1, 2002.

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