

Prosecutors Law of the PRC

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Chapter I — General Provisions

Article 1 — This Law is formulated in accordance with the Constitution in order to comprehensively advance the building of a high-quality contingent of prosecutors, strengthen the administration of and supervision over prosecutors, safeguard the lawful rights and interests of prosecutors, ensure that people's procuratorates independently exercise procuratorial power in accordance with the law, ensure that prosecutors perform their duties in accordance with the law, and safeguard judicial fairness.

Article 2 — Prosecutors are procuratorial personnel who exercise the state's procuratorial power in accordance with the law, including the chief procurators, deputy chief procurators, members of procuratorial committees, and procurators of the Supreme People's Procuratorate, of local people's procuratorates at all levels, and of special people's procuratorates such as military procuratorates.

Article 3 — Prosecutors must faithfully implement the Constitution and laws, safeguard social fairness and justice, and serve the people wholeheartedly.

Article 4 — Prosecutors shall be diligent and responsible, honest and upright, and strictly observe professional ethics.

Article 5 — In performing their duties, prosecutors shall base themselves on facts and take the law as the criterion, and uphold an objective and impartial stance.

In handling criminal cases, prosecutors shall strictly adhere to the principle of legality with respect to crimes and punishments, respect and safeguard human rights, and both prosecute crimes and ensure that innocent persons are not subject to criminal prosecution.

Article 6 — Prosecutors' performance of duties in accordance with the law shall be protected by law and shall not be subject to interference by administrative organs, social organizations, or individuals.

Chapter II — Duties, Obligations, and Rights of Prosecutors

Article 7 — The duties of prosecutors:

- (1) investigating criminal cases that, in accordance with the law, are directly accepted by people's procuratorates;
- (2) reviewing arrests and reviewing prosecutions in criminal cases, and conducting public prosecution on behalf of the State;
- (3) carrying out public interest litigation work;
- (4) carrying out supervision of criminal, civil, and administrative litigation activities;
- (5) other duties prescribed by law.

Prosecutors shall be responsible for the decisions they make on cases within the scope of their functions and powers.

Article 8 — In addition to performing procuratorial duties, the chief procurators, deputy chief procurators, and members of procuratorial committees of people's procuratorates shall also perform duties commensurate with their positions.

Article 9 — Prosecutors shall carry out work under the leadership of the chief procurator, and major case-handling matters shall be decided by the chief procurator. The chief procurator may entrust part of the functions and powers to prosecutors, and may authorize prosecutors to sign legal documents.

Article 10 — Prosecutors shall perform the following obligations:

- (1) strictly observing the Constitution and laws;
- (2) handling cases impartially and not bending the law for personal gain;

- (3) safeguarding the litigation rights of the parties and other participants in proceedings in accordance with the law;
- (4) safeguarding the interests of the State and the public interests of society, and protecting the lawful rights and interests of individuals and organizations;
- (5) keeping state secrets and procuratorial work secrets, and keeping confidential the trade secrets and personal privacy that come to their knowledge in performing their duties;
- (6) accepting legal supervision and supervision by the public in accordance with the law;
- (7) interpreting the law through cases handled in accordance with the law, enhancing the awareness of the rule of law among all the people, and advancing the building of a law-based society;
- (8) other obligations prescribed by law.

Article 11 — Prosecutors enjoy the following rights:

- (1) the functions and powers and working conditions necessary for performing the duties of a prosecutor;
- (2) not being transferred, removed from office, demoted, dismissed, or sanctioned except for statutory reasons and through statutory procedures;
- (3) the professional safeguards and welfare benefits to which they are entitled for performing the duties of a prosecutor;
- (4) protection by law of the safety of their persons, property, and residences;
- (5) filing appeals or complaints;
- (6) other rights prescribed by law.

Chapter III — Conditions and Selection of Prosecutors

Article 12 — To serve as a prosecutor, a person must meet the following conditions:

- (1) having the nationality of the People's Republic of China;
- (2) upholding the Constitution of the People's Republic of China, and supporting the leadership of the Communist Party of China and the socialist system;
- (3) having good political and professional qualities and moral character;
- (4) being physically capable of performing duties normally;
- (5) having an undergraduate degree in law from an ordinary institution of higher learning and a bachelor's degree or above; or having an undergraduate degree or above in a non-law major from an ordinary institution of higher learning and a master's degree or above in law or a master of laws or above; or having an undergraduate degree or above in a non-law major from an ordinary institution of higher learning and another corresponding degree, with professional legal knowledge;
- (6) having engaged in legal work for five years or more; for those who have obtained a master's degree in law or a master of laws degree, or a doctoral degree in law, the required years of legal work may be relaxed to four years or three years, respectively;
- (7) initial prosecutors shall pass the national unified legal professional qualification examination and obtain legal professional qualification.

In places where it is genuinely difficult to apply the educational requirements in item (5) of the preceding paragraph, upon review and confirmation by the Supreme People's Procuratorate, the educational requirement for serving as a prosecutor may be relaxed to an undergraduate degree from an institution of

higher learning within a certain period.

Article 13 — The following persons shall not serve as prosecutors:

- (1) those who have received criminal punishment for a crime;
- (2) those who have been removed from public office;
- (3) those who have had their lawyer's or notary's practice certificates revoked or have been expelled by an arbitration commission;
- (4) those under other circumstances prescribed by law.

Article 14 — Initial prosecutors shall be selected by means of examination and assessment, and candidates shall be proposed on a merit basis from among persons who meet the conditions for serving as prosecutors, in accordance with the standard of combining moral integrity and professional competence.

The chief procurator of a people's procuratorate shall have professional legal knowledge and legal professional experience. Deputy chief procurators and members of procuratorial committees shall be produced from among prosecutors, judges, or other persons who meet the conditions for serving as prosecutors.

Article 15 — People's procuratorates may, in accordance with the needs of procuratorial work, openly select prosecutors from lawyers or from persons engaged in legal professions such as legal teaching and research personnel.

In addition to meeting the conditions for serving as prosecutors, lawyers participating in the open selection shall have actually practiced for no less than five years, with rich practice experience and a good professional reputation; legal teaching and research personnel participating in the open selection shall have professional titles of intermediate level or above, have engaged in teaching or research work for five years or more, and have outstanding research ability and corresponding research achievements.

Article 16 — Provinces, autonomous regions, and municipalities directly under the Central Government shall establish prosecutor selection committees responsible for the review of the professional competence of candidates for initial prosecutors.

The members of a provincial prosecutor selection committee shall include representatives of prosecutors of local people's procuratorates at all levels, other persons engaged in legal professions, and representatives of relevant parties, with prosecutor representatives accounting for no less than one-third.

The day-to-day work of a provincial prosecutor selection committee shall be undertaken by the internal functional departments of the provincial people's procuratorate.

For the selection of prosecutors of the Supreme People's Procuratorate, a prosecutor selection committee of the Supreme People's Procuratorate shall be established to be responsible for the review of the professional competence of prosecutor candidates.

Article 17 — Initial prosecutors shall generally take office at primary people's procuratorates. Prosecutors of higher-level people's procuratorates shall generally be selected level by level; prosecutors of the Supreme People's Procuratorate and provincial people's procuratorates may be selected from the people's procuratorates at the two lower levels. Prosecutors participating in the selection for a higher-level people's procuratorate shall have served as prosecutors at a lower-level people's procuratorate for a certain number of years and have work experience relevant to the position for which they are selected.

Chapter IV — Appointment and Removal of Prosecutors

Article 18 — The appointment and removal of prosecutors shall be handled in accordance with the appointment and removal authority and procedures prescribed by the Constitution and laws.

The Procurator-General of the Supreme People's Procuratorate shall be elected and removed by the National People's Congress; the deputy procurators-general, members of the procuratorial committee, and procurators shall be appointed and removed by the Standing Committee of the National People's Congress upon the proposal of the Procurator-General.

The chief procurators of local people's procuratorates at all levels shall be elected and removed by the people's congresses at the corresponding levels; the deputy chief procurators, members of procuratorial committees, and procurators shall be appointed and removed by the standing committees of the people's congresses at the corresponding levels upon the proposal of the chief procurator.

The appointment and removal of the chief procurators of local people's procuratorates at all levels must be submitted by the chief procurator of the people's procuratorate at the next higher level to the standing committee of the people's congress at the corresponding level for approval.

The chief procurators, deputy chief procurators, members of procuratorial committees, and procurators of the branches of the people's procuratorates of provinces, autonomous regions, and municipalities directly under the Central Government shall be appointed and removed by the standing committees of the people's congresses at the corresponding levels upon the proposal of the chief procurator of the people's procuratorate of the province, autonomous region, or municipality directly under the Central Government.

For the people's procuratorates established as dispatched organs by provincial people's procuratorates and by people's procuratorates of cities divided into districts, the chief procurators, deputy chief procurators, members of procuratorial committees, and procurators shall be appointed and removed by the standing committees of the people's congresses at the corresponding levels upon the proposal of the chief procurator of the dispatching people's procuratorate.

The chief procurators, deputy chief procurators, members of procuratorial committees, and procurators of the people's procuratorates at all levels of the Xinjiang Production and Construction Corps and of special people's procuratorates shall be appointed and removed in accordance with the relevant provisions of the Standing Committee of the National People's Congress.

Article 19 — After being produced in accordance with statutory procedures, prosecutors shall publicly take the constitutional oath upon taking office.

Article 20 — Where a prosecutor falls under any of the following circumstances, the removal of his or her post as prosecutor shall be proposed in accordance with the law:

- (1) losing the nationality of the People's Republic of China;
- (2) being transferred out of the people's procuratorate where he or she serves;
- (3) the post as prosecutor not needing to be retained due to a change of position, or the person applying for removal from the post of prosecutor and the application being approved;
- (4) being found incompetent for the post of prosecutor through assessment;
- (5) being unable to perform duties for a long period due to health reasons;
- (6) retiring;
- (7) resigning, or being subject to dismissal in accordance with the law;
- (8) being unsuitable to continue in office due to violation of discipline or law.

Article 21 — Where a person who does not meet the conditions prescribed by this Law or who was elected in violation of statutory procedures is elected as the chief procurator of a people's procuratorate, the chief procurator of the people's procuratorate at the next higher level shall have the right to propose to the standing committee of the people's congress at the corresponding level not to approve the election.

Article 22 — Where it is discovered that a prosecutor has been appointed in violation of the conditions prescribed by this Law, the appointing organ shall revoke the appointment; where a higher-level people's procuratorate discovers that the appointment of a prosecutor by a lower-level people's procuratorate violates the conditions prescribed by this Law, it shall require the lower-level people's procuratorate to propose to the appointing organ to revoke the appointment in accordance with the law.

Article 23 — Prosecutors shall not concurrently serve as members of the standing committees of people's congresses, shall not concurrently hold positions in administrative organs, supervisory organs, or adjudicatory organs, shall not concurrently hold positions in enterprises or other profit-making organizations or public institutions, and shall not concurrently serve as lawyers, arbitrators, or notaries.

Article 24 — Where prosecutors have a spousal relationship, a direct blood relationship, a collateral blood relationship within three generations, or a close relationship by marriage, they shall not concurrently hold the following positions:

- (1) chief procurator, deputy chief procurator, and member of the procuratorial committee of the same people's procuratorate;
- (2) chief procurator, deputy chief procurator, and procurator of the same people's procuratorate;
- (3) procurator of the same business department;
- (4) chief procurators and deputy chief procurators of two adjacent levels of people's procuratorates.

Article 25 — Where the spouse, parent, or child of a prosecutor falls under any of the following circumstances, the prosecutor shall recuse himself or herself from office:

- (1) serving as a partner or founder of a law firm within the jurisdiction of the people's procuratorate where the prosecutor serves;
- (2) acting as a litigation agent or defender in the capacity of a lawyer within the jurisdiction of the people's procuratorate where the prosecutor serves, or providing other paid legal services to parties to litigation cases.

Chapter V — Administration of Prosecutors

Article 26 — Prosecutors shall be administered under a post-quota system. The number of prosecutor posts shall be determined on the basis of factors such as the number of cases, the economic and social development situation, the size of the population, and the level of the people's procuratorate, and shall be subject to total control and dynamic management within provinces, autonomous regions, and municipalities directly under the Central Government, with priority given to the case-handling needs of primary people's procuratorates and people's procuratorates with a large number of cases.

Where vacancies arise in the number of prosecutor posts, they shall be filled in a timely manner in accordance with the procedures.

The number of prosecutor posts of the Supreme People's Procuratorate shall be determined by the Supreme People's Procuratorate in consultation with the relevant departments.

Article 27 — Prosecutors shall be administered under a separate post sequence system.

Prosecutor grades are divided into twelve grades, in order: Chief Grand Prosecutor, Grand Prosecutor First Class, Grand Prosecutor Second Class, Senior Prosecutor First Class, Senior Prosecutor Second Class, Senior Prosecutor Third Class, Senior Prosecutor Fourth Class, Prosecutor First Class, Prosecutor Second Class, Prosecutor Third Class, Prosecutor Fourth Class, and Prosecutor Fifth Class.

Article 28 — The Procurator-General of the Supreme People's Procuratorate shall be the Chief Grand Prosecutor.

Article 29 — The determination of prosecutor grades shall be based on factors such as the moral character and ability, professional competence, actual achievements in procuratorial work, and years of service of prosecutors.

The promotion of prosecutor grades shall adopt a method combining promotion on schedule and promotion on merit; prosecutors in frontline case-handling positions who are especially outstanding or whose work is especially needed may be promoted on special merit.

Article 30 — The specific measures for the establishment, determination, and promotion of prosecutor grades shall be prescribed separately by the State.

Article 31 — Initial prosecutors shall be subject to a unified pre-service training system.

Article 32 — Prosecutors shall receive planned political, theoretical, and professional training.

The training of prosecutors shall integrate theory with practice, provide education according to needs, and stress practical results.

Article 33 — The training of prosecutors shall serve as one of the bases for their appointment and grade promotion.

Article 34 — Prosecutor training institutions shall undertake the task of training prosecutors in accordance with the relevant provisions.

Article 35 — A prosecutor applying to resign shall submit the application in writing, and after approval, his or her post shall be removed in accordance with the procedures prescribed by law.

Article 36 — The dismissal of a prosecutor shall be accompanied by removal from his or her post in accordance with the procedures prescribed by law.

The dismissal of a prosecutor shall be decided in accordance with the authority of administration. The dismissal decision shall be notified to the dismissed prosecutor in writing, stating the reasons and basis for the decision.

Article 37 — Within two years after leaving a people's procuratorate, a prosecutor shall not serve as a litigation agent or defender in the capacity of a lawyer.

After leaving a people's procuratorate, a prosecutor shall not serve as a litigation agent or defender in cases handled by the people's procuratorate where he or she originally served, except where he or she acts as the guardian or close relative of a party in litigation or defense.

After being expelled, a prosecutor shall not serve as a litigation agent or defender, except where he or she acts as the guardian or close relative of a party in litigation or defense.

Article 38 — Where required by work, prosecutors may, upon selection or approval by their units, assist in practical teaching and research work at institutions of higher learning and research institutes, and shall observe the relevant provisions of the State.

Chapter VI — Assessment, Reward, and Discipline of Prosecutors

Article 39 — People's procuratorates shall establish prosecutor assessment committees responsible for the assessment of the prosecutors of the procuratorate.

Article 40 — The prosecutor assessment committee shall be composed of five to nine members.

The chief procurator of the procuratorate shall serve as the chairman of the prosecutor assessment committee.

Article 41 — The assessment of prosecutors shall be comprehensive, objective, and fair, combining routine assessment with annual assessment.

Article 42 — The contents of the assessment of prosecutors shall include actual achievements in procuratorial work, professional ethics, professional competence, work ability, and work style. The assessment shall focus on actual achievements in procuratorial work.

Article 43 — The results of annual assessment are divided into four grades: outstanding, competent, basically competent, and incompetent.

The assessment results shall serve as the basis for the adjustment of prosecutor grades and salaries, as well as for the reward, punishment, removal, demotion, and dismissal of prosecutors.

Article 44 — The assessment results shall be notified to the prosecutor in writing. Where a prosecutor has objections to the assessment results, he or she may apply for review.

Article 45 — Prosecutors who have achieved remarkable results and contributions in procuratorial work, or who have other outstanding deeds, shall be rewarded.

Article 46 — Prosecutors under any of the following circumstances shall be rewarded:

- (1) administering justice impartially with remarkable results;
- (2) summarizing procuratorial practice experience with outstanding achievements that have a guiding effect on procuratorial work;
- (3) making remarkable achievements and contributions in handling major cases, dealing with emergencies, and undertaking special important work;
- (4) making reform proposals for procuratorial work that are adopted with remarkable results;
- (5) making procuratorial proposals that are adopted, or carrying out publicity on the rule of law and resolving various disputes with remarkable results;
- (6) having other meritorious achievements.

The rewarding of prosecutors shall be handled in accordance with the relevant provisions.

Article 47 — Prosecutors under any of the following circumstances shall be given sanctions; where a crime is constituted, criminal liability shall be pursued in accordance with the law:

- (1) embezzling or accepting bribes, bending the law for personal gain, or extorting confessions by torture;
- (2) concealing, forging, altering, or deliberately destroying evidence or case materials;
- (3) divulging state secrets, procuratorial work secrets, trade secrets, or personal privacy;
- (4) deliberately handling cases in violation of laws and regulations;
- (5) causing errors in cases through gross negligence and causing serious consequences;
- (6) delaying case handling and delaying work;
- (7) using functions and powers to seek private benefits for oneself or others;
- (8) accepting the transfer of benefits from parties and their agents, or meeting parties and their agents in violation of the relevant provisions;
- (9) engaging in or participating in profit-making activities in violation of the relevant provisions, or concurrently holding positions in enterprises or other profit-making organizations;
- (10) having other acts in violation of discipline or law.

The sanctioning of prosecutors shall be handled in accordance with the relevant provisions.

Article 48 — Where a prosecutor is suspected of violating discipline or law and a case has been filed for investigation or criminal investigation, and it is not appropriate for the prosecutor to continue performing

duties, the performance of his or her duties shall be temporarily suspended in accordance with the authority of administration and the prescribed procedures.

Article 49 — The Supreme People's Procuratorate and provinces, autonomous regions, and municipalities directly under the Central Government shall establish prosecutor discipline committees responsible for reviewing and determining from a professional perspective whether prosecutors have committed acts in violation of procuratorial duties as prescribed in items (4) and (5) of Article 47 of this Law, and shall produce review opinions such as constituting intentional violation of duties, constituting gross negligence, constituting ordinary negligence, or no violation of duties. After the prosecutor discipline committee produces a review opinion, the people's procuratorate shall decide in accordance with the relevant provisions whether to impose discipline and give corresponding treatment.

The prosecutor discipline committee shall be composed of prosecutor representatives, other persons engaged in legal professions, and representatives of relevant parties, with prosecutor representatives accounting for no less than half.

The day-to-day work of the prosecutor discipline committee of the Supreme People's Procuratorate and of provincial prosecutor discipline committees shall be undertaken by the internal functional departments of the relevant people's procuratorates.

Article 50 — When the prosecutor discipline committee deliberates disciplinary matters, the prosecutor concerned shall have the right to apply for recusal of relevant personnel and the right to make statements, present evidence, and defend himself or herself.

Article 51 — The review opinion produced by the prosecutor discipline committee shall be delivered to the prosecutor concerned. Where the prosecutor concerned has objections to the review opinion, he or she may raise them with the discipline committee, and the discipline committee shall review the objections and the reasons therefor and make a decision.

Article 52 — The specific procedures for the deliberation of disciplinary matters by the prosecutor discipline committee shall be determined by the Supreme People's Procuratorate in consultation with the relevant departments.

Chapter VII — Professional Safeguards for Prosecutors

Article 53 — People's procuratorates shall establish prosecutor rights and interests protection committees to safeguard the lawful rights and interests of prosecutors and ensure that prosecutors perform their duties in accordance with the law.

Article 54 — Except under the following circumstances, prosecutors shall not be transferred away from procuratorial business posts:

- (1) recusal from office is required in accordance with the provisions;
- (2) post exchange is implemented in accordance with the provisions;
- (3) work adjustment is needed due to institutional adjustment, revocation, merger, or reduction of establishment posts;
- (4) the person is unsuitable to work in procuratorial business posts due to violation of discipline or law;
- (5) other circumstances prescribed by law.

Article 55 — No unit or individual may require prosecutors to engage in affairs beyond the scope of their statutory duties.

Prosecutors shall have the right to refuse any interference with their handling of cases and shall make a complete and truthful record and report thereof; where there are circumstances of violation of discipline or

law, the relevant organs shall, in accordance with the seriousness of the circumstances, pursue the responsibility of the responsible persons and actors.

Article 56 — The professional dignity and personal safety of prosecutors shall be protected by law.

No unit or individual may retaliate against prosecutors or their close relatives.

Anyone who commits illegal or criminal acts such as retaliation and framing, insult and slander, violent infringement, threat and intimidation, or harassment and disturbance against prosecutors and their close relatives shall be severely punished in accordance with the law.

Article 57 — Where a prosecutor's reputation is damaged by false reports, false accusations and framing, or insult and slander arising from the lawful performance of duties, the people's procuratorate shall, in conjunction with the relevant departments, promptly clarify the facts, eliminate the adverse effects, and pursue the responsibility of the relevant units or individuals in accordance with the law.

Article 58 — Where the personal safety of a prosecutor and his or her close relatives is endangered due to the lawful performance of duties by the prosecutor, the people's procuratorate and public security organs shall adopt necessary protective measures for the prosecutor and his or her close relatives, such as personal protection and prohibiting specific persons from contacting them.

Article 59 — Prosecutors shall be subject to a salary system commensurate with their duties, enjoy the salary treatment prescribed by the State in accordance with their prosecutor grades, and be subject to a mechanism for synchronized adjustment with civil servant salaries.

The salary system for prosecutors shall be prescribed separately by the State in accordance with the characteristics of procuratorial work.

Article 60 — Prosecutors shall be subject to a system of periodic salary increases.

Those determined as outstanding or competent through annual assessment may be promoted to a higher salary grade in accordance with the provisions.

Article 61 — Prosecutors shall enjoy the allowances, subsidies, bonuses, insurance, and welfare benefits prescribed by the State.

Article 62 — Prosecutors who become disabled in the line of duty shall enjoy the disability treatment prescribed by the State. Where a prosecutor sacrifices his or her life in the line of duty, dies in the line of duty, or dies of illness, his or her relatives shall enjoy the pensions and preferential treatment prescribed by the State.

Article 63 — The retirement system for prosecutors shall be prescribed separately by the State in accordance with the characteristics of procuratorial work.

Article 64 — After retirement, prosecutors shall enjoy the pensions and other treatment prescribed by the State.

Article 65 — Prosecutors shall have the right to file complaints against acts by state organs and their staff that infringe upon the rights of prosecutors prescribed in Article 11 of this Law.

Article 66 — Where a sanction or personnel treatment of a prosecutor is erroneous, it shall be corrected in a timely manner; where damage to reputation is caused, the reputation shall be restored, adverse effects eliminated, and an apology made; where economic loss is caused, compensation shall be made. The directly responsible persons for retaliation shall be pursued for their responsibility in accordance with the law.

Chapter VIII — Supplementary Provisions

Article 67 — The State shall implement a unified legal professional qualification examination system for initial prosecutors, which shall be organized and implemented by the judicial administrative department of the

State Council in consultation with the Supreme People's Procuratorate and other relevant departments.

Article 68 — Prosecutor assistants of people's procuratorates shall, under the guidance of prosecutors, be responsible for reviewing case materials, drafting legal documents, and other procuratorial auxiliary affairs.

People's procuratorates shall strengthen the building of the contingent of prosecutor assistants and reserve talent for the selection of prosecutors.

Article 69 — For the rights, obligations, and administration systems of prosecutors, where this Law has provisions, the provisions of this Law shall apply; where this Law has no provisions, the relevant laws and regulations on civil servant administration shall apply.

Article 70 — This Law shall come into force on October 1, 2019.

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