

Adoption Law of the People's Republic of China

(Adopted at the 23rd Meeting of the Standing Committee of the Seventh National People's Congress and promulgated by Order No. 54 of the President of the People's Republic of China on December 29, 1991, amended in accordance with the Decision on Revising the Adoption Law of the People's Republic of China adopted at the 5th Meeting of the Standing Committee of the Ninth National People's Congress on November 4, 1998)

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Chapter I General Provisions

Article 1 This Law is enacted to protect the lawful adoptive relationship and to safeguard the rights of parties involved in the adoptive relationship.

Article 2 Adoption shall be in the interest of the upbringing and growth of adopted minors, with the lawful rights and interests of both adoptees and adopters safeguarded, in adherence to the principles of equality and voluntariness, and not in contravention of social morality.

Article 3 Adoption shall not contravene laws and regulations on family planning.

Chapter II Establishment of an Adoptive Relationship

Article 4 Minors under the age of 14, as enumerated below, may be adopted:

- (1) orphans bereaved of parents;
- (2) abandoned infants or children whose parents cannot be ascertained or found; and
- (3) children whose parents are unable to rear them due to unusual difficulties.

Article 5 The following citizens or institutions shall be entitled to place out children for adoption:

- (1) guardians of an orphan;
- (2) social welfare institutions; and
- (3) parents unable to rear their children due to unusual difficulties.

Article 6 Adopters shall meet simultaneously the following requirements:

- (1) childless;
- (2) capable of rearing and educating the adoptee;
- (3) suffering no such disease as is medically regarded as unfit for adopting a child; and
- (4) having reached the age of 30.

Article 7 A person may adopt a child belonging to a collateral relative by blood of the same generation and up to the third degree of kinship, irrespective of the restrictions specified in sub-paragraph (3) of Article 4; sub-paragraph (3) of Article 5 and Article 9 of this Law as well as the restriction that the adoptee shall be under the age of 14.

An overseas Chinese, in adopting a child belonging to a collateral relative by blood of the same generation and up to the third degree of kinship, may even be not subject to the adopter's childless status.

Article 8 The adopter may adopt one child only, male or female.

Orphans, disabled children, or abandoned infants and children whose parents cannot be ascertained or found and who are under the care of a social welfare institution may be adopted irrespective of the restrictions that the adopter shall be childless and that he or she may adopt one child only.

Article 9 Where a male person without spouse adopts a female child, the age difference between the adopter and the adoptee shall be no less than 40 years.

Article 10 Where the parents intend to place out their child for adoption, they shall act in concert. If one parent cannot be ascertained or found, the other parent may place out the child for adoption alone.

Where a person with spouse adopts a child, the husband and wife shall adopt the child in concert.

Article 11 Adoption of a child and the placing out of the child for the adoption shall both take place on a voluntary basis. Where the adoption involves a minor aged 10 or more, the consent of the adoptee shall be obtained.

Article 12 If the parents of a minor are both persons without full civil capacity, the guardian(s) of the minor may not place out him (her) for adoption, except when the parents may do serious harm to the minor.

Article 13 Where a guardian intends to place out an orphaned minor for adoption, the guardian shall obtain the consent of the person who has obligations to support the orphan. Where the person who has obligations to support the orphan disagrees to place out the orphan for adoption, and the guardian is unwilling to continue the performance of his guardianship, it is necessary to change the guardian in accordance with the General Principles of the Civil Law of the People's Republic of China.

Article 14 The husband or wife may, with the consent of the father or mother of a child, adopt the child as his or her step-son or step-daughter, and may be subject to no restrictions specified in sub-paragraph (3) of Article 4; sub-paragraph (3) of Article 5 and Article 6 of this Law, nor the restrictions that the adoptee shall be under the age of 14 and that only one child may be adopted.

Article 15 The adoption shall be registered with the civil affairs department of the people's government at or above the county level. The adoptive relationship shall be established as of the date of registration.

Where an abandoned infant or child whose parents cannot be ascertained or found is adopted, the civil affairs department in charge of registration shall make it known to the general public before registration.

If the parties involved in the adoptive relationship wish to enter into an agreement on adoption, they may conclude such an agreement.

If the parties or one party involved in the adoptive relationship wishes that the adoption be notarized, it shall be done accordingly.

Article 16 After the adoptive relationship is established, the public security organ shall, in accordance with the relevant regulations of the State, register the adoptee's residence.

Article 17 Orphans or children whose parents are unable to rear them may be supported by relatives or friends of their parents.

The adoptive relationship shall not apply to the relationship between the supporter and the supported.

Article 18 Where a spouse places out a minor child for adoption after the death of the other spouse, the parents of the deceased shall have the priority in rearing the child.

Article 19 Persons having placed out a child for adoption may not bear any more child, in violation of the regulations on family planning, on the ground of having placed out their child for adoption.

Article 20 It is strictly forbidden to buy or sell a child or to do so under the cloak of adoption.

Article 21 A foreigner may, in accordance with this Law, adopt a child (male or female) in the People's Republic of China.

Where a foreigner wishes to adopt a child in the People's Republic of China, the matter shall be subject to examination and approval of the competent authorities of the country, to which he or she belongs, in accordance with the law of that country. The adopter shall provide papers certifying such particulars of the adopter as age, marital status, profession, property, health and whether ever subjected to criminal punishment, which are issued by the competent agencies of the country to which the adopter belongs. Such certifying papers shall be authenticated by a foreign affairs institution of the country to which the adopter belongs or by an agency authorized by the said institution, and by the embassy or consulate of the People's Republic of China stationed in that country, too. The adopter shall conclude a written agreement with the person who places out the child for adoption and register in person the adoption with a civil affairs department of the people's government at the provincial level.

If the parties or one party involved in the adoptive relationship wishes that the adoption be notarized, it shall be done with a notary agency that is qualified to handle foreign-related notarization and is designated by the administrative department of justice under the State Council.

Article 22 When the adopter and the person placing out the child for adoption wish to make a secret of the adoption, others shall respect their wish and shall not make a disclosure thereof.

Chapter III Validity of Adoption

Article 23 As of the date of establishment of the adoptive relationship, the legal provisions governing the relationship between parents and children shall apply to the rights and duties in the relationship between adoptive parents and adopted children; the legal provisions governing the relationship between children and close relatives of their parents shall apply to the rights and duties in the relationship between adopted children and close relatives of the adoptive parents. The rights and duties in the relationship between an adopted child and his or her parents and other close relatives shall terminate with the establishment of the adoptive relationship.

Article 24 An adopted child may adopt his or her adoptive father's or adoptive mother's surname, and may also retain his or her original surname, if so agreed through consultation between the parties concerned.

Article 25 Any act of adoption contravening the provisions of Article 55 of the General Principles of the Civil Law of the People's Republic of China and those of this Law shall be of no legal validity.

Any act of adoption ruled to be invalid by a people's court shall be of no legal validity from the very start of the act.

Chapter IV Termination of an Adoptive Relationship

Article 26 No adopter may terminate the adoptive relationship before the adoptee comes of age, except when the adopter and the person having placed out the child for the adoption agree to terminate such relationship. If the adopted child involved reaches the age of 10 or more, his or her consent shall be obtained.

Where an adopter fails to perform the duty of rearing the adoptee or commits maltreatment, abandonment, or other acts of encroachment upon the lawful rights of the minor adopted child, the person having placed out the child for adoption shall have the right to demand termination of the adoptive relationship. Where the adopter and the person having placed out the child for adoption fail to reach an agreement thereon, a suit may be brought in a People's Court.

Article 27 Where the relationship between the adoptive parents and an adult adopted child deteriorates to such a degree that their living together in a same household becomes impossible, they may terminate their adoptive relationship by agreement. In the absence of an agreement, they may bring a suit in a People's Court.

Article 28 Where the parties agree to terminate the adoptive relationship, they shall register the termination of the adoptive relationship with a civil affairs department.

Article 29 Upon termination of an adoptive relationship, the rights and duties in the relationship between an adopted child and his or her adoptive parents and their close relatives shall also terminate, and the rights and duties in the relationship between the child and his or her parents and their close relatives shall be restored automatically. However, with respect to the rights and duties in the relationship between an adult adopted child and his or her parents and their close relatives, it may be decided through consultation as to whether to restore them.

Article 30 Upon termination of an adoptive relationship, an adult adopted child who has been reared by the adoptive parents shall provide an amount of money to support the adoptive parents who have lost ability to work and are short of any source of income. If the adoptive relationship is terminated on account of the maltreatment or desertion of the adoptive parents by the grown-up adopted child, the adoptive parents may demand a compensation from the adopted child for the living and education expenses paid during the period of adoption.

If the parents of an adopted child request the termination of the adoptive relationship, the adoptive parents may demand an appropriate compensation from the parents for the living and education expenses paid during the period of adoption, except if the adoptive relationship is terminated on account of the maltreatment or desertion of the adopted child by the adoptive parents.

Chapter V Legal Responsibility

Article 31 Whoever abducts and traffics in a child under the cloak of adoption shall be investigated for criminal responsibility in accordance with law.

Whoever abandons an infant shall be fined by a public security organ; if the act constitutes a crime, the offender shall be investigated for criminal responsibility in accordance with law.

Whoever sells his or her own child, his or her illegal gains shall be confiscated by a public security organ and he or she shall also be fined; if the act constitutes a crime, the offender shall be investigated for criminal responsibility in accordance with law.

Chapter VI Supplementary Provisions

Article 32 The people's congress and its standing committee in a national autonomous area may, on the basis of the principles of this Law and in the light of the local conditions, formulate adaptive or supplementary provisions. The relevant regulations of a national autonomous region shall be submitted to the Standing Committee of the National People's Congress for the record. The relevant regulations of an autonomous prefecture or autonomous county shall be submitted to the standing committee of the provincial or autonomous region's people's congress for approval before coming into effect, and shall also be submitted to the Standing Committee of the National People's Congress for the record.

Article 33 The State Council may, in accordance with this Law, formulate measures for its implementation.

Article 34 This Law shall go into effect as of April 1, 1992.