

Population and Family Planning Law of PRC

(Unofficial Translation. For reference only.)

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Chapter I. General provisions

Article 1 This law is enacted, in accordance with the Constitution, so as to bring population into balance with social economic development, resources, and the environment: to promote family planning; to protect citizens' legitimate rights and interests; to enhance family happiness, and to contribute to the nation's prosperity and social progress.

Article 2 China is a populous country. Family planning is a fundamental state policy. The State shall adopt a comprehensive approach to controlling population size and improving socio-economical and public health characteristics of population. The State shall rely on publicity and education, advances in science and technology, comprehensive services and the establishment and improvement of the incentive and social security systems to carry out the family planning program.

Article 3 Population and family planning programs shall act in concert with programs that expand women's educational and employment opportunities, enhance their health, and elevate their status.

Article 4 The People's Governments and staff at all levels implementing the family planning program shall act strictly within the law, enforcing it in a civil manner, and must not infringe on citizens' legitimate rights and interest. The family planning administrative departments and their staff acting within the law are protected by law.

Article 5 The State Council shall exercise authority over the national population and family planning program. Local people's governments at all levels shall exercise authority over the population and family planning programs in their respective jurisdictions.

Article 6 The family planning administrative department of the State Council shall be in charge of

the national family planning program and population programs related to family planning. Family planning administrative departments of people's governments at county level and above shall be in charge of family planning programs and population programs related to family planning in their respective jurisdictions.

Other government administrative departments at county level and above shall be in charge of aspects of the population and family planning programs falling within their mandates.

Article 7 Social organizations such as Trade Unions, Communist Youth Leagues, Women's Federations, and Family Planning Associations; enterprises; institutions; and individual citizens shall assist the people's government in carrying out population and family planning programs.

Article 8 Organizations and individuals making outstanding achievements in the population and family planning programs shall be recognized and rewarded by the State.

Chapter II Formulation and implementation of population development plans

Article 9 The State Council shall devise population development plans and incorporate them into the national economic and social development plans.

Based on plans at the next highest and national levels, people's governments at country level and above shall devise population development plans in line with local conditions and incorporate them into their economic and social development plans.

Article 10 People's governments at country level and above shall devise population and above shall be responsible for routine implementation of population and family planning action plans. People's governments of township, ethnic township, and town, and sub-district offices in urban areas, shall be in charge of population and family planning programs in their respective jurisdictions and shall implement population and family planning action plans.

Article 11 Population and family planning action plans shall stipulate measures to govern population size, strengthen maternal and child health care services, and improve socio-economical and public health characteristics of population.

Article 12 Villager's committees and neighborhood committees shall follow the law and endeavor to implement family planning programs.

State organs, the armed forces, social organizations, enterprises, and institutions shall endeavor to implement their own family planning programs.

Article 13 Government departments responsible for family planning, education science and technology, culture, public health, civil affairs, press and publication, and broadcasting and television shall organize and carry out public education campaigns on population and family planning.

The mass media are obligated to carry pro bono public service messages on population and family planning.

Schools shall provide human physiology, adolescence, and sexual health education to students in a

planned and audience-appropriate manner.

Article 14 Family planning programs among the migrant population shall be jointly managed by their local governments of origin and local governments of residence, with efforts focused where they reside.

Article 15 The State shall gradually increase the overall level of funding for population and family planning programs, based on the national economic and social development. People's governments at all levels shall provide the necessary funding for the implementation of their population and family planning programs.

People's governments at all levels shall give special support to population and family planning programs in impoverished areas and minority ethnic areas.

The State shall encourage social organizations, enterprises, institutions, and individuals to contribute support to population and family planning programs.

No unit or individual shall withhold, reduce or redirect funds appropriated to population and family planning programs.

Article 16 The State shall encourage scientific research and international exchange and cooperation in the fields of population and family planning.

Chapter III Regulation of fertility

Article 17 Citizens have the right to reproduction as well as the responsibility for practicing family planning according to law. Husbands and wives bear equal responsibility for family planning.

Article 18 The State shall maintain its current fertility policy encouraging late marriage and childbearing and advocating one child per couple; arrangements for a second child, if requested, being subject to law and regulation. Specific measures shall be enacted by the People's Congress or its standing committee in each province, autonomous region, and municipality.

Ethnic minorities shall also practice family planning. Specific measures shall be enacted by the People's Congress or its standing committee in each province, autonomous region, and municipality.

Article 19 In implementing family planning, the primary emphasis shall be on contraception.

The State shall create conditions conducive to individuals being assured of an informed choice of safe, effective, and appropriate contraceptive methods. Safety of recipients of birth control procedures must be ensured.

Article 20 Couples of reproductive age shall be conscientious in adopting contraceptive methods and in accepting the guidance of family planning technical services.

Incidences of unwanted pregnancies shall be prevented and reduced.

Article 21 Couples of reproductive age who practice family planning shall be able to obtain technical services free of charge under the basic items as specified by the State.

The cost of the aforesaid services shall be itemized in public appropriations made in accordance with applicable State regulations or be guaranteed by social insurance plans.

Article 22 Discrimination against and mistreatment of women who give birth to female children or who suffer from infertility are prohibited. Discrimination against, mistreatment, and abandonment of female infants are prohibited.

Chapter IV Incentives and social security

Article 23 The State shall, in accordance with regulations, recognize and reward couples who practice family planning.

Article 24 To facilitate family planning programs, the State shall establish and improve social security arrangements providing basic old-age insurance, basic medical insurance, childbearing insurance, and welfare benefits.

In rural areas where conditions are favorable, various types of old-age support schemes should be set up following the principle of government guidance and rural people's willingness.

Article 25 Citizens who marry late and delay childbearing are entitled to longer nuptial and maternity leaves or other welfare benefits.

Article 26 In accordance with applicable State regulations, women shall have special job-safety protections and be entitled to assistance and subsidies during pregnancy, delivery, and while breast-feeding.

Citizens who undergo surgical procedures for family planning shall be granted leave as stipulated by the State. Local people's governments may award them incentives.

Article 27 The State shall award a "Certificate of Honor for Single-Child Parents" to couples who volunteer to have one child in their lifetime.

Couples awarded such a certificate shall enjoy the incentives provided for in State regulations and in the regulations of their respective provinces, autonomous regions, or municipalities.

Employers shall obligatorily implement those incentive measures, stipulated by law and regulation, favoring couples in their employ who have one child over a lifetime.

Local people's governments shall provide necessary assistance to couples whose only child is disabled or killed in accidents, and who decide not to bear or adopt another child.

Article 28 Local governments at all levels shall give households that practice family planning preferential access to funding, technology, and training. Households in poverty that practice family planning shall be given priority for poverty-alleviation loans, work relief, and other social assistance.

Article 29 The People's Congress and their standing committees in provinces, autonomous regions, municipalities and larger cities, or local people's governments, shall devise detailed implementation procedures for the incentives stipulated in this chapter in accordance with the

provisions of this law and other applicable laws and regulations and in line with local conditions.

Chapter V Family planning technical services

Article 30 The State shall establish premarital health care and maternal health care systems to prevent or reduce the incidence of birth defects and improve the health of newborns.

Article 31 People's governments at all levels shall take steps to assure all citizens access to family planning technical services in order to enhance their reproductive health.

Article 32 Local people's governments at all levels shall rationally allocate and coordinate the use of health resources; establish and improve family planning service networks comprising family planning clinics and health and medical institutions providing such services; upgrade facilities and improve the conditions under which care is provided; and raise the level of technical services.

Article 33 Family planning technical service institutions, medical and healthcare institutions providing family planning services shall, within the scope of their respective responsibilities, direct publicity and education about basic population and family planning information at people of reproductive age; provide pregnancy check-ups and follow-up for married women of reproductive age; offer counseling and guidance; and provide technical services in family planning and reproductive health.

Article 34 Family planning technical service providers shall give guidance to individuals in choosing safe, effective, and appropriate contraceptive methods.
Couples who have given birth are encouraged to choose long-acting contraceptive methods.
The State shall encourage the research, development, and promotion of new family planning technologies and products.

Article 35 Use of ultrasonography or other techniques to identify fetal gender for non-medical purposes is strictly prohibited. Sex-selective pregnancy termination for non-medical purposes is strictly prohibited.

Chapter VI Legal liability

Article 36 Anyone who violates this law by one of the following acts shall be ordered to rectify the violation and warned by the family planning or public health agency, and all gains derived from such illegal acts shall be confiscated by the family planning or public health administrative departments.

If the illegal gains exceed RMB 10,000, a fine of no less than two times and no more than six times the amount shall be imposed. If no illegal gains is involved or the amount is less than RMB 10,000, a fine of no less than RMB 10,000 and no more than RMB 30,000 shall be imposed. In serious cases, licenses shall be revoked by the issuing agency. Acts constituting a crime shall be referred for criminal prosecution.

(1) Illegal performance of a surgical procedure related to family planning at another's behest.

(2) Use of ultrasonography or other techniques to identify fetal gender for non-medical purposes or sex-selective pregnancy termination for non-medical purposes, at another's behest.

(3) Faking a birth control procedure related to family planning, falsifying a medical report, or counterfeiting certificates related to family planning.

Article 37 Anyone who forges, alters, buys or sells certificates related to family planning shall have the illegal gains confiscated by the family planning administrative departments. If the illegal gains exceed RMB 5,000, a fine of no less than two times and no more than ten times the amount shall be imposed. If no illegal gains is involved or the amount is less than RMB 5,000, a fine of no less than RMB 5,000 and no more than RMB 20,000 shall be imposed. Acts constituting a crime shall be referred for criminal prosecution.

The family planning administrative departments shall render void improperly-obtained certificates related to family planning. Administrative penalties shall be imposed on both the executive in charge of the agency issuing flawed certificates and the individuals directly responsible.

Article 38 Family Planning service providers who commit malpractice or who delay emergency response, diagnosis or treatment with dire results shall be held liable under the applicable laws and regulations.

Article 39 Staff of state organs who commit one of the following acts in the course of family planning activities shall, if the act constitutes a crime, be referred for criminal prosecution; or, if the act does not constitute a crime, be subject to both administrative penalties and confiscation of any illegal gains.

(1) Infringing on a citizen's personal rights, property rights or other legitimate rights and interests.

(2) Abuse of power, dereliction of duty or graft.

(3) Seeking or accepting a bribe.

(4) Withholding, reducing, redirecting or embezzling family planning program funds or social compensation fees.

(5) Distorting, under-reporting, fabricating, modifying or refusing to report statistical data on population or family planning.

Article 40 Those who violate provisions of this law or are derelict in family planning program management shall be ordered to rectify the violation and rebuked in a circular by their local government. Administrative penalties shall be imposed on both the executive in charge of the agency and the individuals directly responsible.

Article 41 Citizens who give birth not in accordance with the stipulations in Article 18 shall pay a social compensation fee prescribed by this law. Those failing to pay the full amount before the due date shall be levied a late payment penalty specified in applicable State regulations. Those who persist in nonpayment shall be sued for payment in People's Court by the family planning administrative departments that levied the social compensation fee.

Article 42 The state employees levied the social compensation fee described in Article 41 shall be subject to additional administrative penalties, according to law. Others levied such a fee shall be

subject to additional disciplinary measures imposed by their employing units.

Article 43 Those who resist or hinder family planning administrative departments and staff in the performance of their legitimate duties shall be subject to criticism and ordered to amend their conduct by the family planning administrative departments involved. Conduct breaching public security regulations shall be subject to public security penalties. Acts constituting a crime shall be referred for criminal prosecution.

Article 44 Citizens, entities treated as legal persons or other organizations deeming that an administrative organ has infringed on their legitimate rights and interests while implementing family planning policy may appeal for review or sue for redress.

Chapter VII Supplementary provisions

Article 45 The State Council shall devise specific measures for managing family planning program among migrants, specific measures for managing family planning technical services, and measures for the administration of collecting social compensation fees.

Article 46 Detailed measures for implementing this law by the Chinese People's Liberation Army shall be devised by the Central Military Commission in accordance with this law.

Article 47 This law shall enter into effect on 1 September 2002.