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Adoption Law of the People's Republic of China (1998 Amendment)

中华人民共和国收养法

(Adopted at the 23rd Meeting of the Standing Committee of the Seventh National People's Congress 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 and promulgated by Order No. 10 of the President of the People's Republic of China as of the same date)

（1991年12月29日第七届全国人民代表大会常务委员会第二十三次会议通过 根据1998年11月4日第九届全国人民代表大会常务委员会第五次会议《关于修改〈中华人民共和国收养法〉的决定》修正 同日中华人民共和国主席令第10号公布）

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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

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第一章 总则

第一条 为保护合法的收养关系，维护收养关系当事人的权利，制定本法。

第二条 收养应当有利于被收养的未成年人的抚养、成长，保障被收养人和收养人的合法权益，遵循平等自愿的原则，并不得违背社会公德。

第三条 收养不得违背计划生育的法律、法规。

第二章 收养关系的成立

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.

第四条 下列不满十四周岁的未成年人可以被收养:

(一) 丧失父母的孤儿;

(二) 查找不到生父母的弃婴和儿童;

(三) 生父母有特殊困难无力抚养的子女。

第五条 下列公民、组织可以作送养人:

(一) 孤儿的监护人;

(二) 社会福利机构;

(三) 有特殊困难无力抚养子女的生父母。

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

第六条 收养人应当同时具备下列条件:

(一) 无子女;

(二) 有抚养教育被收养人的能力;

(三) 未患有在医学上认为不应当收养子女的疾病;

(四) 年满三十周岁。

第七条 收养三代以内同辈旁系血亲的子女，可以不受本法第四条第三项、第五条第三项、第九条和被收养人不满十四周岁的限制。

华侨收养三代以内同辈旁系血亲的子女，还可以不受收养人无子女的限制。

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.

第八条 收养人只能收养一名子女。

收养孤儿、残疾儿童或者社会福利机构抚养的查找不到生父母的弃婴和儿童，可以不受收养人无子女和收养一名的限制。

第九条 无配偶的男性收养女性的，收养人与被收养人的年龄应当相差四十周岁以上。

第十条 生父母送养子女，须双方共同送养。生父母一方不明或者查找不到的可以单方送养。

有配偶者收养子女，须夫妻共同收养。

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 stepfather or stepmother 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.

第十一条 收养人收养与送养人送养，须双方自愿。收养年满十周岁以上未成年人的，应当征得被收养人的同意。

第十二条 未成年人的父母均不具备完全民事行为能力的，该未成年人的监护人不得将其送养，但父母对该未成年人有严重危害可能的除外。

第十三条 监护人送养未成年孤儿的，须征得有抚养义务的人同意。有抚养义务的人不同意送养、监护人不愿意继续履行监护职责的，应当依照《中华人民共和国民事诉讼法》的规定变更监护人。

第十四条 继父或者继母经继子女的生父母同意，可以收养继子女，并可以不受本法第四条第三项、第五条第三项、第六条和被收养人不满十四周岁以及收养一名的限制。

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.

第十五条 收养应当向县级以上人民政府民政部门登记。收养关系自登记之日起成立。

收养查找不到生父母的弃婴和儿童的，办理登记的民政部门应当在登记前予以公告。

收养关系当事人愿意订立收养协议的，可以订立收养协议。

收养关系当事人各方或者一方要求办理收养公证的，应当办理收养公证。

第十六条 收养关系成立后，公安部门应当依照国家有关规定为被收养人办理户口登记。

第十七条 孤儿或者生父母无力抚养的子女，可以由生父母的亲属、朋友抚养。

抚养人与被抚养人的关系不适用收养关系。

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

第十八条 配偶一方死亡，另一方送养未成年子女的，死亡一方的父母有优先抚养的权利。

第十九条 送养人不得以送养子女为理由违反计划生育的规定再生育子女。

第二十条 严禁买卖儿童或者借收养名义买卖儿童。

第二十一条 外国人依照本法可以在中华人民共和国收养子女。

外国人在中华人民共和国收养子女，应当经其所在国主管机关依照该国法律审查同意。收养人应当提供由其所在国有权机构出具的有关收养人的年龄、婚姻、职业、财产、健康、有无受过刑事处罚等状况的证明材料，该证明材料应当经其所在国外交机关或者外交机关授权的机构认证，并经中华人民共和国驻该国使领馆认证。该收养人应当与送养人订立书面协议，亲自向省级人民政府民政部门登记。

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.

收养关系当事人各方或者一方要求办理收养公证的，应当到国务院司法行政部门认定的具有办理涉外公证资格的公证机构办理收养公证。

第二十二条 收养人、送养人要求保守收养秘密的，其他人应当尊重其意愿，不得泄露。

第三章 收养的效力

第二十三条 自收养关系成立之日起，养父母与养子女间的权利义务关系，适用法律关于父母子女关系的规定；养子女与养父母的近亲属间的权利义务关系，适用法律关于子女与父母的近亲属关系的规定。

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.

养子女与生父母及其他近亲属间的权利义务关系，因收养关系的成立而消除。

第二十四条 养子女可以随养父或者养母的姓，经当事人协商一致，也可以保留原姓。

第二十五条 违反《中华人民共和国民法通则》第五十五条和本法规定的收养行为无法律效力。

收养行为被人民法院确认无效的，从行为开始时起就没有法律效力。

第四章 收养关系的解除

第二十六条 收养人在被收养人成年以前，不得解除收养关系，但收养人、送养人双方协议解除的除外，养子女年满十周岁以上的，应当征得本人同意。

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.

收养人不履行抚养义务，有虐待、遗弃等侵害未成年养子女合法权益行为的，送养人有权要求解除养父母与养子女间的收养关系。送养人、收养人不能达成解除收养关系协议的，可以向人民法院起诉。

第二十七条 养父母与成年养子女关系恶化、无法共同生活的，可以协议解除收养关系。不能达成协议的，可以向人民法院起诉。

第二十八条 当事人协议解除收养关系的，应当到民政部门办理解除收养关系的登记。

第二十九条 收养关系解除后，养子女与养父母及其他近亲属间的权利义务关系即行消除，与生父母及其他近亲属间的权利义务关系自行恢复，但成年养子女与生父母及其他近亲属间的权利义务关系是否恢复，可以协商确定。

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.

第三十条 收养关系解除后，经养父母抚养的成年养子女，对缺乏劳动能力又缺乏生活来源的养父母，应当给付生活费。因养子女成年后虐待、遗弃养父母而解除收养关系的，养父母可以要求养子女补偿收养期间支出的生活费和教育费。

生父母要求解除收养关系的，养父母可以要求生父母适当补偿收养期间支出的生活费和教育费，但因养父母虐待、遗弃养子女而解除收养关系的除外。

第五章 法律责任

第三十一条 借收养名义拐卖儿童的，依法追究刑事责任。

遗弃婴儿的，由公安部门处以罚款；构成犯罪的，依法追究刑事责任。

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.

出卖亲生子女的，由公安部门没收非法所得，并处以罚款；构成犯罪的，依法追究刑事责任。

第六章 附则

第三十二条 民族自治地方的人民代表大会及其常务委员会可以根据本法的原则，结合当地情况，制定变通的规定或者补充的规定。自治区的规定，报全国人民代表大会常务委员会备案。自治州、自治县的规定，报省或者自治区的人民代表大会常务委员会批准后生效，并报全国人民代表大会常务委员会备案。

第三十三条 国务院可以根据本法制定实施办法。

第三十四条 本法自 1992 年 4 月 1 日起施行。