

Civil Code of the People's Republic of China/Part 5 Marriage and Family

< [Civil Code of the People's Republic of China](#)

Part 5 Marriage and Family

Chapter One General Provisions

Article 1040: This edition adjusts civil relations arising from marriage and family.

Article 1041: Marriage and family shall be protected by the state.

Implement a marriage system featuring freedom of marriage, monogamy and equality between men and women.

Protect the lawful rights and interests of women, minors, the elderly, and the disabled.

Article 1042: Arrangement, sale of marriages and other acts that interfere with the freedom of marriage **are** prohibited. It is forbidden to obtain property through marriage.

Bigamy is prohibited. People who are married are forbidden to live with others.

Domestic violence is prohibited. Abuse and abandonment among family members is prohibited.

Article 1043: Families should establish a good family tradition, promote family virtues, and value the construction of family civilization.

Husband and wife should be loyal to each other, respect each other, and love each other; family members should respect the old and love the young, help each other, and maintain an equal, harmonious, and civilized marriage and family relationship.

Article 1044: Adoption shall follow the principle that is most beneficial to the adoptee, and protect the lawful rights and interests of the adoptee and the adoptee.

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It is prohibited to buy or sell minors in the name of adoption.

Article 1045: Relatives include spouses, blood relatives and in-laws.

Spouse, parents, children, brothers and sisters, grandparents, grandfathers, grandchildren, and granddaughters are close relatives.

Spouse, parents, children and other close relatives living together are family members.

Chapter 2 Marriage

Article 1046: Marriage shall be completely voluntary between the man and the woman. It is forbidden for either party to force the other party, or any organization or individual to interfere.

Article 1047: Marriage age must not be earlier than 22 years for men and 20 years for women.

Article 1048: Marriage is prohibited for direct blood relatives or collateral blood relatives within three generations.

Article 1049: Both the man and the woman who require marriage shall go to the marriage registration office to apply for marriage registration in person. Those that comply with the provisions of this law shall be registered and a marriage certificate shall be issued. The marriage registration is completed, that is, the marriage relationship is established. If the marriage registration is not completed, the registration shall be completed.

Article 105: After the marriage is registered, the woman can become a member of the man's family and the man can become a member of the woman's family according to the agreement between the man and the woman.

Article 1051 : Marriage is invalid in any of the following circumstances:

- (1) Bigamy;
- (2) Having relatives that prohibit marriage;
- (3) Not reaching the legal marriage age.

Article 1052: Where the marriage is coerced, the coerced party may request the people's court to cancel the marriage.

A request to cancel the marriage shall be submitted within one year from the date of termination of the coercive act.

If a party whose personal freedom is illegally restricted requests the cancellation of the marriage, the request shall be made within one year from the date of restoration of personal freedom.

Article 1053: If one party suffers from a serious illness, he shall truthfully inform the other party before the registration of the marriage; if not truthfully, the other party may request the people's court to cancel the marriage.

A request for cancellation of a marriage shall be made within one year from the date when the reason for the cancellation is known or should have been known.

Article 1054: An invalid or annulled marriage is not legally binding from the beginning, and the parties do not have the rights and obligations of husband and wife. The property acquired during the cohabitation period shall be dealt with by the parties' agreement; if the agreement fails, the people's court shall make a judgment based on the principle of taking care of the party at fault. The property treatment of invalid marriages caused by bigamy shall not infringe on the property rights and interests of parties to the legal marriage. For children born to the parties, the provisions of this law on parents and children shall apply.

If the marriage is invalid or revoked, the innocent party has the right to request compensation for damages.

Chapter Three Family Relations

The first section husband and wife relationship

Article 1055: Husband and wife shall have equal status in the marriage and family.

Article 1056: Both spouses have the right to use their own names.

Article 1057: Both spouses have the freedom to participate in production, work, study and social activities, and one party may not restrict or interfere with the other.

Article 1058: Both spouses shall equally enjoy the right to raise, educate and protect minor children, and jointly undertake the obligations of raising, education and protection of minor children.

Article 1059: Husband and wife have the obligation to support each other.

The party in need of support has the right to demand support payments when the other party fails to perform the obligation of support.

Article 1060: Civil legal acts performed by one spouse due to the daily needs of the family shall have effect on both spouses, unless one spouse and the counterpart have agreed otherwise.

The restriction on the scope of civil juristic acts that can be carried out by a spouse shall not confront the counterpart in good faith.

Article 1061: Husband and wife have the right to inherit each other's inheritance.

Article 1062: The following property **acquired by the** spouse during the marriage relationship shall be the joint property of the spouse and shall be jointly owned by the spouse:

- (1) Salaries, bonuses and remuneration for labor services;
- (2) Income from production, operation and investment;
- (3) Income from intellectual property;
- (4) Property inherited or donated, except as provided in Item 3 of Article 1063 of this Law;
- (5) Other properties that should be jointly owned.

Husband and wife have equal rights to deal with joint property.

Article 1063: The following property is the personal property of the spouse:

- (1) Pre-marital property of one party;
- (2) Compensation or compensation obtained by one party for personal injury;
- (3) Property determined to belong to only one party in the will or gift contract;
- (4) Daily necessities dedicated to one party;
- (5) Other property that should belong to one party.

Article 1064: The debts incurred by both spouses jointly signed by the spouse or by one spouse's subsequent ratification, as well as the debts incurred by one spouse in personal name for the daily needs of the family during the duration of the marriage, belong to the joint debt.

The debts that a spouse owes in his personal name that exceed the daily needs of the family during the duration of the marriage relationship do not belong to the joint debt of the husband and wife; however, the creditor can prove that the debt is used for the joint life of the husband and wife, joint production and business operation, or based on the joint will of the husband and wife. except.

Article 1065: Both parties may agree that the property acquired during the marriage relationship and the pre-marital property shall be owned, jointly or partly owned separately or partly jointly. The agreement shall be made in writing. If there is no agreement or the agreement is not clear, the provisions of Articles 1062 and 1063 of this law shall apply.

The agreement of the husband and wife on the property acquired during the marriage relationship and the property before marriage is legally binding on both parties.

The husband and wife agree that the property acquired during the marriage relationship shall belong to each other, and the debts borne by the husband or wife to the outside world shall be paid off with the personal property of the husband or wife if the counterpart knows the agreement.

Article 1066: During the period of the marriage relationship, one of the following situations may be applied to the people's court for the division of common property:

- (1) One party has concealed, transferred, sold, destroyed, squandered the joint property of the husband and wife, or forged joint debts of the husband and wife, etc., which seriously damage the interests of the joint property of the husband and wife;
- (2) One party has a statutory maintenance obligation and requires treatment for a serious illness, and the other party does not agree to pay related medical expenses.

Section 2 Parent-child relationship and other close relatives

Article 1067: Where parents fail to perform their duty of support, minor children or adult children who cannot live independently have the right to require parents to pay support.

Adult children who fail to perform their maintenance obligations, parents who lack the ability to work or have difficulties in life, have the right to demand maintenance payments from their adult children.

Article 1068: Parents have the right and obligation to educate and protect minor children. If a minor child causes damage to others, the parents shall bear civil liability according to law.

Article 1069: Children shall respect the marriage rights of their parents, and shall not interfere with their parents' divorce, remarriage and post-marital life. The obligation of children to support their parents shall not be terminated due to changes in their parents' marital relationship.

Article 1070: Parents and children have the right to inherit each other's inheritance.

Article 1071: Children born out of wedlock enjoy the same rights as children born in wedlock, and no organization or individual may harm or discriminate against them.

The biological father or biological mother who does not directly raise children born out of wedlock shall bear the support of minor children or adult children who cannot live independently.

Article 1072: There shall be no abuse or discrimination between stepparents and stepchildren.

The relationship of rights and obligations between a stepfather or stepmother and the stepchildren who are brought up and educated shall be governed by the provisions of this law on the relationship between parents and children.

Article 1073: Where there are objections to the parent-child relationship and there are legitimate reasons, the father or mother may file a lawsuit in the people's court to request confirmation or denial of the parent-child relationship.

If there are objections to the parent-child relationship and there are legitimate reasons, the adult child may file a lawsuit in the people's court to request confirmation of the parent-child relationship.

Article 1074 : Grandparents and grandparents who can afford have the obligation to raise minor grandchildren or grandchildren whose parents have died or whose parents are unable to raise them.

Grandchildren and grandchildren who can afford are obliged to support their grandparents and grandparents whose children have died or whose children are unable to support.

Article 1075: Elder brothers and sisters who can afford it shall have the duty to support minor brothers and sisters whose parents have died or whose parents are unable to raise them.

Brothers and sisters who are able to afford to grow up by brothers and sisters have the obligation to support brothers and sisters who lack the ability to work and have no source of income.

Chapter 4 Divorce

Article 1076: If both spouses divorce voluntarily, they shall sign a written divorce agreement and apply for divorce registration at the marriage registration office in person.

The divorce agreement should contain the intention of both parties to divorce voluntarily and their consensus on matters such as child support, property and debt handling.

Article 1077: Within 30 days from the date when the marriage registration authority receives the application for divorce registration, if either party is unwilling to divorce, it may withdraw the divorce registration application to the marriage registration authority.

Within 30 days after the expiration of the time limit specified in the preceding paragraph, both parties shall go to the marriage registration authority to apply for the issuance of a divorce certificate; if they fail to apply, the application for divorce registration shall be deemed to have been withdrawn.

Article 1078: If the marriage registration authority **finds** that the two parties are indeed divorced voluntarily and have reached an agreement on matters such as child support, property and debt handling, they shall register and issue a divorce certificate.

Article 1079: If one spouse requests a divorce, the relevant organization may conduct mediation or directly file a divorce lawsuit in the people's court.

People's courts shall conduct mediation when trying divorce cases; if the relationship is indeed broken and mediation is invalid, the divorce shall be granted.

If the mediation is invalid under any of the following circumstances, the divorce shall be granted:

- (1) Bigamy or cohabitation with others;
- (2) Committing domestic violence or torturing or abandoning family members;
- (3) Having bad habits such as gambling and taking drugs has not changed after being taught repeatedly;
- (4) Two years of separation due to emotional discord;
- (5) Other circumstances leading to the breakdown of the relationship between the couple.

If one party is declared missing and the other party files a divorce lawsuit, the divorce shall be granted.

After the people's court decides that the divorce is not allowed, the two parties have separated for one year, and one of the parties filed for divorce again, the divorce shall be granted.

Article 1080: When the divorce registration is completed, or the divorce judgment or mediation statement becomes effective, the marriage relationship is dissolved.

Article 1081: When the spouse of **an** active military member requests a divorce, the military member's consent shall be obtained, unless the military member has a serious fault.

Article 1082: During the woman's pregnancy, within one year after giving birth, or within six months after the termination of pregnancy, the man may not file for divorce; except where the woman files for divorce or the people's court considers it necessary to accept the man's divorce request.

Article 1083: After the divorce, if both the man and the woman voluntarily restore their marriage relationship, they shall go to the marriage registration office to re-register the marriage.

Article 1084: The relationship between parents and children shall not be eliminated by the divorce of the parents. After the divorce, no matter whether the child is directly raised by the father or the mother, they are still the children of both parents.

After the divorce, parents still have the right and obligation to raise, educate and protect their children.

After the divorce, children under the age of two shall be brought up directly by the mother. For children who have reached the age of two, if both parents fail to reach an agreement on the issue of support, the people's court shall make a judgment based on the specific circumstances of both parties and in accordance with the principle that is most beneficial to the minor children. Children who have reached the age of eight should respect their true wishes.

Article 1085: After a divorce, if the child is directly brought up by one party, the other party shall bear part or all of the alimony. The amount of expenses to be borne and the length of the period shall be agreed upon by both parties; if the agreement fails, the people's court shall make a judgment.

The agreement or judgment provided in the preceding paragraph does not prevent the child from making a reasonable request to either parent to exceed the amount originally set in the agreement or judgment when necessary.

Article 1086: After a divorce, a parent who does not directly raise a child shall have the right to visit the child, and the other party shall have the obligation to assist.

The method and time for exercising the visitation right shall be agreed by the parties; if the agreement fails, the people's court shall make a judgment.

If a parent or mother visits a child, which is not conducive to the physical and mental health of the child, the people's court shall suspend the visit according to law; after the reason for the suspension disappears, the visit shall be resumed.

Article 1087: At the time of divorce, the joint property of the husband and wife shall be dealt with by agreement between the two parties; if the agreement fails, the people's court shall make a judgment based on the specific conditions of the property and the principle of taking care of the rights and interests of the children, the wife and the innocent party.

The rights and interests enjoyed by the husband or wife in the contracted management of family land shall be protected in accordance with the law.

Article 1088: If one **of the** spouses bears more obligations due to raising children, caring for the elderly, assisting the other in work, etc., at the time of divorce, they have the right to request compensation from the other party, and the other party shall make compensation. The specific measures shall be negotiated by both parties; if the agreement fails, the people's court shall make a judgment.

Article 1089: At the time of divorce, the joint debts of the husband and wife shall be repaid together. If the joint property is insufficient to pay off or the property belongs to each other, the two parties shall agree to pay off; if the agreement fails, the people's court shall make a judgment.

Article 1090: At the time **of a** divorce, if one party has difficulties in life, the other party who can afford it shall provide appropriate assistance. The specific measures shall be negotiated by both parties; if the agreement fails, the people's court shall make a judgment.

Article 1091: In the event of a divorce in **one** of the following circumstances, the innocent party has the right to request compensation for damages:

- (1) Bigamy;
- (2) Cohabiting with others;
- (3) Implement domestic violence;

(4) Abuse or abandon family members;

(5) Other major faults.

Article 1092: Where one spouse conceals, transfers, sells, destroys, or squanders the joint property of the spouse, or forges the joint debt of the spouse in an attempt to encroach on the property of the other spouse, when the joint property of the spouse is divided by the divorce, the spouse may share less or Regardless of. After the divorce, if the other party discovers the above-mentioned behavior, it can file a lawsuit in the people's court, requesting that the joint property be divided again.

Chapter 5 Adoption

Section 1 Establishment of an adoption relationship

Article 1093: The following minors may be adopted:

(1) Orphans who have lost their parents;

(2) Minors whose biological parents cannot be found;

(3) Children whose biological parents have special difficulties and cannot afford to raise them.

Article 1094: The following individuals and organizations may serve as escorts:

(1) The guardian of the orphan;

(2) Child welfare institutions;

(3) Natural parents who have special difficulties and cannot afford to raise their children.

Article 1095: Where a minor's parents do not have full capacity for civil conduct and may seriously endanger the minor, the minor's guardian may send him for adoption.

Article 1096: Where a guardian sends an orphan for adoption, it shall obtain the consent of the person who has the obligation to support it. If a person with a maintenance obligation does not agree to send for adoption, and the guardian is unwilling to continue to perform guardianship duties, a separate guardian shall be determined in accordance with the provisions of Part I of this law.

Article 1097: When parents send their children for adoption, both parties shall send them together for adoption. If one of the biological parents is unknown or cannot be found, they can be sent unilaterally.

Article 1098: The adopter shall meet the following requirements at the same time:

(1) No children or only one child;

(2) Have the ability to raise, educate and protect the adoptee;

(3) Not suffering from diseases that medically consider that children should not be adopted;

(4) No illegal or criminal record that is detrimental to the healthy growth of the adoptee;

(5) At least 30 years old.

Article 1099: The adoption of children of collateral blood relatives of the same generation within three generations may be exempted from Article 1093, Item 3, Article 1094, Item 3 and Thousandth The restrictions stipulated in Article 102.

The adoption of children of collateral blood relatives of the same generation by overseas Chinese within three generations may also be exempt from the restrictions set forth in Paragraph 1 of Article 1098 of this Law.

Article 110: Adopters without children can adopt two children; **adopters** with children can only adopt one child.

The adoption of orphans, disabled minors, or minors raised by child welfare institutions whose biological parents cannot be found, may not be restricted by the preceding paragraph and Article 1098, Paragraph 1 of this Law.

Article 1101: When a spouse adopts a child, the spouse shall adopt the child together.

Article 1102: Where a person without a spouse adopts a child of the opposite sex, the age difference between the adopter and the adoptee shall be more than 40 years old.

Article 1103 A stepfather or stepmother may adopt a stepchild with the consent of the stepchild's biological parents, and may not be subject to Article 1093, Paragraph 3 and Article 1094 of this law. The third item, the restrictions stipulated in Article 1098 and the first paragraph of Article 110.

Article 1104: The adoption by the adopter and the adoption by the adopter shall be voluntary. The adoption of a minor over the age of eight shall obtain the consent of the adoptee.

Article 1105: Adoption shall be registered with the civil affairs department of the people's government at or above the county level. The adoption relationship is established from the date of registration.

In the case of adopting a minor whose biological parents cannot be found, the civil affairs department that handles the registration shall make an announcement before registration.

If the parties involved in the adoption relationship are willing to sign an adoption agreement, they may sign an adoption agreement.

If any party or one of the parties to the adoption relationship requests adoption notarization, they shall apply for adoption notarization.

The civil affairs department of the people's government at or above the county level shall conduct an adoption assessment in accordance with the law.

Article 1106: After the establishment of an adoption relationship, the public security organ shall handle the household registration for the adoptee in accordance with relevant state regulations.

Article 107: Orphans or children whose biological parents are unable to raise may be raised by relatives and friends of the biological parents; the relationship between the supporter and the dependent does not apply to the provisions of this chapter.

Article 1108: Where one spouse dies, and the other spouse sends a minor child for adoption, the parents of the deceased have the priority right to support.

Article 1109: Foreigners may adopt children in the People's Republic of China in accordance with the law.

The adoption of children by foreigners in the People's Republic of China shall be reviewed and approved by the competent authority of the country in which they are located in accordance with the laws of that country. The adopter shall provide proof of his/her age, marriage, occupation, property, health, and whether he has received criminal penalties issued by the competent authority of the country where he/she is located, and sign a written agreement with the adopter to personally submit to the province, autonomous region, Registered by the civil affairs department of the people's government of the municipality directly under the Central Government.

The certification materials specified in the preceding paragraph shall be certified by the diplomatic agency of the country where the adopter is located or an agency authorized by the diplomatic agency, and certified by the embassy or consulate of the People's Republic of China in that country, unless the country provides otherwise.

Article 110: Where adopters or adopters request to keep the secrets of adoption, other persons shall respect their wishes and shall not disclose them.

Section 2 Effect of adoption

Article 111. Since the establishment of the adoption relationship, the rights and obligations between adoptive parents and adopted children shall be governed by the provisions of this law on the relationship between parents and children; the rights and obligations between adopted children and their close relatives Relationship, the provisions of this law on the close relative relationship between children and their parents shall apply.

The relationship of rights and obligations between adopted children and their biological parents and other close relatives shall be eliminated due to the establishment of the adoption relationship.

Article 112: Adopted children may follow the adoptive father or adoptive mother's surname, and the parties may retain their original surname after consultation.

Article 1113: Circumstances in which the provisions concerning the invalidity of civil juristic acts in the first **part** of this law or adoptions that violate the provisions of this part are invalid.

Invalid adoption is not legally binding from the beginning.

Section 3 Dissolution of the adoption relationship

Article 114: The adopter may not terminate the adoptive relationship before the adoptee reaches adulthood, unless the adopter and the adopter agree to terminate it. Adopted children over eight years old shall obtain their consent.

If the adopter fails to perform the obligation of raising, and has abused, abandoned, and other acts that infringe upon the lawful rights and interests of minor adopted children, the adopter shall have the right to request the termination of the adoption relationship between the adoptive parents and the adopted child. If the adopter or adopter cannot reach an agreement to terminate the adoption relationship, they may file a lawsuit in the people's court.

Article 115: If the relationship between adoptive parents and adult adopted children deteriorates and is unable to live together, the adoption relationship may be terminated by agreement. If an agreement cannot be reached, a lawsuit may be filed in the people's court.

Article 116: If the parties agree to terminate the adoption relationship, they shall go to the civil affairs department to register for termination of the adoption relationship.

Article 117: After the termination of the adoption relationship, the rights and obligations between the adopted children and their adoptive parents and other close relatives shall be eliminated, and the rights and obligations between the biological parents and other close relatives shall be automatically restored. However, whether the rights and obligations between adult adopted children and their biological parents and other close relatives are restored can be determined through negotiation.

Article 118: After the termination of the adoption relationship, adult adopted children raised by adoptive parents shall pay living expenses to adoptive parents who lack the ability to work and have no source of income. If the adoptive relationship is terminated due to the abuse or abandonment of the adoptive parents by the adopted children after they reach adulthood, the adoptive parents may request the adopted children to compensate the support expenses paid during the adoption period.

Where the biological parents request the termination of the adoptive relationship, the adoptive parents may require the biological parents to properly compensate the maintenance expenses paid during the adoption period; however, the adoption is not terminated due to the abuse or abandonment of the adopted children by the adoptive parents.

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draft Sub-edit	Draft for public comment on December 28, 2019 • Notes on the "Civil Code of the People's Republic of China (Draft)" 	
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Possession

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