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Population and Family Planning Law of the People's Republic of China (Order of the President No.63)

Order of the President of the People's Republic of China

No. 63

The Population and Family Planning Law of the People's Republic of China, adopted at the 25th Meeting of the Standing Committee of the Ninth National People's Congress of the People's Republic of China on December 29, 2001, is hereby promulgated and shall go into effect as of September 1, 2002.

Jiang Zemin

President of the People's Republic of China

December 29, 2001

Population and Family Planning Law of the People's Republic of China

(Adopted at the 25th Meeting of the Standing Committee of the Ninth National People's Congress on December 29, 2001)

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Chapter I

General Provisions

Article 1 This Law is enacted, in accordance with the Constitution, for the purpose of bringing about a coordinated development between population on the one side and the economy, society, resources and environment on the other, promoting family planning, protecting the legitimate rights and interests of citizens, enhancing happiness of families, and contributing to prosperity of the nation and progress of the society.

Article 2 China being a populous country, family planning is a fundamental State policy.

The State adopts a comprehensive measure to control the size and raise the general quality of the population.

The State relies on publicity and education, advances in science and technology, multi-purpose services and the establishment and improvement of the reward and social security systems in carrying out the population and family planning programs.

Article 3 The population and family planning programs shall be combined with the efforts to offer more opportunities for women to receive education and get employed, improve their health and elevate their status.

Article 4 When promoting family planning, the people's governments at all levels and their staff members shall perform their administrative duties strictly in accordance with law, and enforce the law in a civil manner, and they may not infringe upon legitimate rights and interests of citizens.

Lawful performance of the official duties by the administrative departments for family planning and their staff members shall be protected by law.

Article 5 The State Council shall exercise leadership over the population and family planning programs throughout the country. Local people's governments at all levels shall exercise leadership over the population and family planning programs within their own administrative regions.

Article 6 The administrative department for family planning under the State Council shall be in charge of the family planning program and the population program related to family planning nationwide.

Family planning administration departments of the local people's governments at or above the county level shall be in charge of the family planning program and the population program related to family planning within their own administrative regions.

The other administrative departments of the local people's governments at or above the county level shall be in charge of the relevant aspects of the population and family planning programs within the limits of their duties.

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

Article 8 The State gives rewards to organizations and individuals that have scored outstanding achievements in the population program and family planning.

Chapter II

Formulation and Implementation of Population Development Plans

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

Based on the plans for population development nationwide and such plans made by the people's governments at the next higher level, people's governments at or above the county level shall, in light of their local conditions, work out such plans for their own administrative regions and incorporate them into their economic and social development plans.

Article 10 People's governments at or above the county level shall, on the basis of the population development plans, formulate plans for implementation of the population and family planning programs and make arrangements for their implementation.

The administrative departments for family planning of the people's governments at or above the county level shall be responsible for routine implementation of the population and family planning plans.

People's governments of townships, ethnic townships, and towns, and neighborhood offices in urban areas shall be in charge of the population and family planning programs in the areas under their jurisdiction and shall implement the population and family planning plans.

Article 11 In the implementation plans for population and family planning programs shall be specified measures for keeping the size of the population under control, improving maternal and child healthcare services, and raising the general quality of the population.

Article 12 Villagers' committees and residents' committees shall, in accordance with law, make a success of the family planning programs.

Government departments, the armed forces, public organizations, enterprises and institutions shall make a success of the family planning programs in their own units.

Article 13 Departments in charge of family planning, education, science and technology, culture, public health, civil affairs, the press and publication, and radio and television broadcasting shall make arrangements to conduct public education in the importance of the population program and family planning.

The mass media are obligated to give publicity to the population program and family planning for the public good.

Schools shall, in a manner suited to the characteristics of the receivers and in a planned way, conduct among pupils education in physiology and health, puberty or sexual health.

Article 14 Family planning among migrant people shall jointly be managed by the people's governments of the place where their residence is registered and of the place where they are currently staying, but chiefly by the latter.

Article 15 The State, on the basis of the national economic and social development, gradually increases the overall amount of funding for the population and family planning programs. People's governments at all levels shall guarantee the necessary funding for the said programs.

People's governments at all levels shall give special support to the population and family planning programs in poverty-stricken areas and in areas inhabited by ethnic peoples.

The State encourages public organizations, enterprises and institutions and individuals to offer financial assistance to the population and family planning programs.

No unit or individual may withhold, reduce or misappropriate the funds earmarked for the population and family planning programs.

Article 16 The State encourages scientific research and international exchange and cooperation in respect of the population and family planning programs.

Chapter III

Regulation of Reproduction

Article 17 Citizens have the right to reproduction as well as the obligation to practise family planning according to law. Both husband and wife bear equal responsibility for family planning.

Article 18 The State maintains its current policy for reproduction, encouraging late marriage and childbearing and advocating one child per couple. Where the requirements specified by laws and regulations are met, plans for a second child, if requested, may be made. Specific measures in this regard shall be formulated by the people's congress or its standing committee of a province, autonomous region, or municipality directly under the Central Government.

Family planning shall also be introduced to the ethnic peoples. Specific measures in this regard shall be formulated by the people's congress or its standing committee of a province, autonomous region, or municipality directly under the Central Government.

Article 19 Family planning shall be practised chiefly by means of contraception.

The State creates conditions to ensure that individual citizens knowingly choose safe, effective, and appropriate contraceptive methods. Where birth control operations are performed, the recipients' safety shall be ensured.

Article 20 Couples of reproductive age shall conscientiously adopt contraceptive methods and accept technical services and guidance for family planning.

Incidence of unwanted pregnancies shall be prevented and reduced.

Article 21 Couples of reproductive age who practise family planning shall receive, free of charge, the basic items of technical services specified by the State.

The funds needed for rendering the services specified in the preceding paragraph shall, in accordance with relevant State regulations, be listed in the budget or be guaranteed by social insurance plans.

Article 22 Discrimination against and maltreatment of women who give birth to baby girls or who suffer from infertility are prohibited. Discrimination against, maltreatment, and abandonment of baby girls are prohibited.

Chapter IV

Rewards and Social Security

Article 23 The State, in accordance with regulations, rewards couples who practise family planning.

Article 24 To facilitate family planning, the State establishes and improves the social security system covering the basic old-age insurance, basic medical insurance, childbearing insurance, and welfare benefits.

The State encourages insurance companies to offer insurance schemes that facilitate family planning.

In rural areas where conditions permit, various types of old-age support schemes may be adopted in adherence to the principles of government guidance and willingness on the part of the rural people.

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

Article 26 In accordance with relevant State regulations, women shall enjoy special occupational protection and be entitled to assistance and subsidies during the period of pregnancy, delivery, and breast-feeding.

Citizens who undergo surgical operation for family planning shall enjoy leaves as specified by the State. Local people's governments may give them rewards.

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

Couples who are issued the said certificate shall enjoy rewards in accordance with the relevant regulations of the State and of the province, autonomous region, or municipality directly under the Central Government.

Where measures in laws, rules or regulations specify that the rewards to couples who have only one child in their lifetime shall be given by the units where they work, such units shall execute the measures.

Where the only child of a couple is disabled or killed in accidents, and the couple decides not to have or adopt another child, the local people's government shall provide the couple with necessary assistance.

Article 28 Local people's governments at all levels shall help rural households that practise family planning to develop economic undertakings by giving them support and preferential treatment in terms of funds, technology and training. Poverty-

stricken households that practise family planning shall be given priority in terms of poverty-alleviation loans, relief through work and other poverty-alleviation projects, and social assistance.

Article 29 Specific measures for conferring rewards specified in this Chapter may be formulated by the people's congresses or their standing committees or the people's governments of the provinces, autonomous regions, municipalities directly under the Central Government or larger cities in accordance with the provisions of this Law and relevant laws and administrative regulations and in light of local conditions.

Chapter V

Technical Services for Family Planning

Article 30 The State establishes 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 measures to ensure citizens' access to technical services for family planning in order to improve their reproductive health.

Article 32 Local people's governments at all levels shall rationally allocate and make multi-purpose use of health resources, establish and improve family planning technical service networks comprising family planning technical service institutions and medical and healthcare institutions providing such services and upgrade the facilities and improve the conditions for and raise the level of, such services.

Article 33 Family planning technical service institutions and medical and healthcare institutions providing such services shall, within the scope of their respective responsibilities, conduct, among different reproductive age groups of people, publicity and education in the basic knowledge about the population program and family planning, provide pregnancy check-ups and follow-up for married women of reproductive age, offer advice and guidance and provide technical services in respect of family planning and reproductive health.

Article 34 Persons providing family planning technical services shall give guidance to citizens who practise family planning in choosing the safe, effective and appropriate contraceptive methods.

Couples who already have children are encouraged to choose long-acting contraceptive methods.

The State encourages research in, employment and wide use of, new technologies and contraceptives for family planning.

Article 35 Use of ultrasonography or other techniques to identify fetal sex 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, in violation of the provisions of this Law, commits one of the following acts shall be instructed to make rectification and be given a disciplinary warning, and his unlawful gains shall be confiscated by the administrative department for family planning or public health; if the unlawful gains exceed RMB 10,000 yuan, he shall be fined not less than two times but not more than six times the amount of the unlawful gains; if there are no unlawful gains or the said gains are less than 10,000 yuan, he shall be fined not less than 10,000 yuan but not more than 30,000 yuan; if the circumstances are serious, his license shall be revoked by the authority that issued it; if a crime is constituted, he shall be investigated for criminal liability in accordance with law:

- (1) illegally performing an operation related to family planning on another person;
- (2) Using ultrasonography or other techniques to identify fetal gender for non-medical purposes or to bring about sex-selective pregnancy termination for non-medical purposes for another person; or
- (3) performing a fake birth-control operation, providing a false medical report, or issuing a counterfeit certificate of family planning.

Article 37 If anyone forges, alters or trades in certificates of family planning, his unlawful gains shall be confiscated by the administrative department for family planning; if the said gains exceed 5,000 yuan, he shall be fined not less than two times but not more than ten times the amount of the said gains; if there are no such gains or the gains are less than 5,000 yuan, he shall be fined not less than 5,000 yuan but not more than 20,000 yuan. If the offence constitutes a crime, he shall be investigated for criminal liability in accordance with law.

A certificate of family planning that is obtained by illegitimate means shall be revoked by the administrative department for family planning; if the fault lies with the unit that issues such a certificate, the persons who are directly in charge and the other persons who are directly responsible shall be given administrative sanctions in accordance with law.

Article 38 Persons providing technical services for family planning who serve against rules and regulations or delay rescue measures, diagnosis or treatment, if the consequences are serious, shall, in accordance with relevant laws and administrative regulations, bear appropriate legal liability.

Article 39 Any functionary of a State organ who commits one of the following acts in the work of family planning, if the act constitutes a crime, shall be investigated for criminal liability in accordance with law; if it does not constitute a crime, he shall be given an administrative sanction in accordance with law; his unlawful gains, if any, shall be confiscated:

- (1) infringing on a citizen's personal rights, property rights or other legitimate rights and interests;

- (2) abusing his power, neglecting his duty or engaging in malpractices for personal gain;
- (3) demanding or accepting bribes;
- (4) withholding, reducing, misappropriating or embezzling funds for family planning or social maintenance fees; or
- (5) making false or deceptive statistic data on population or family planning, or fabricating, tampering with, or refusing to provide such data.

Article 40 Any unit that, in violation of the provisions of this Law, fails to perform its obligation of assisting in the administration of family planning shall be instructed to make rectification and be criticized in a circular by the local people's government concerned; the persons who are directly in charge and the other persons who are directly responsible shall be given administrative sanctions in accordance with law.

Article 41 Citizens who give birth to babies not in compliance with the provisions of Article 18 of this Law shall pay a social maintenance fee prescribed by law.

Citizens who fails to pay the full amount of the said fees payable within the specified time limit shall have to pay an additional surcharge each in accordance with relevant State regulations, counting from the date each fails to pay the fees; with regard to ones who still fail to make the payment, the administrative department for family planning that makes the decision on collection of the fees shall, in accordance with law, apply to the People's Court for enforcement.

Article 42 Where the person who should pay the social maintenance fees in accordance with the provisions prescribed in Article 41 of this Law is a State functionary, he shall, in addition, be given an administrative sanction in accordance with law; with regard to a person other than the State functionary, a disciplinary measure shall, in addition, be taken against him by the unit or organization where he belongs.

Article 43 Anyone who resists or hinders the administrative department for family planning or its staff members in their performance of their official duties in accordance with law shall be subject to criticism and be stopped by the administrative department for family planning. If his act constitutes a violation of the administrative regulations for public security, he shall, in accordance with law, be given a penalty for the violation; if it constitutes a crime, he shall be investigated for criminal liability.

Article 44 Citizens, legal persons or other organizations that believe an administrative department infringes upon their legitimate rights and interests while administering the family planning program may, in accordance with law, appeal for administrative review or initiate administrative proceedings.

Chapter VII

Supplementary provisions

Article 45 Specific measures for family planning among migrant persons and for providing to them family planning technical services, and measures for collecting social maintenance fees shall be formulated by the State Council.

Article 46 Specific measures for implementing this Law by the Chinese People's Liberation Army shall be formulated by the Central Military Commission in accordance with this Law.

Article 47 This Law shall go into effect as of September 1, 2002.

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