

Law of the People's Republic of China

on Population and Family Planning

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Chapter 1 General Provision

Article 1 In order to achieve the simultaneous development of population with the economy, society, resources and environment, to carry out the family planning, to safeguard the lawful rights and interests of the citizens, and to promote happiness of the families, prosperity of the people and the advancement of society, this Law has been formulated in accordance with the Constitution.

Article 2 Our country is one with a large population, so it is the basic national policy to apply family planning.

The State adopts comprehensive measures to control the population and to improve the quality of life.

The State relies on publicity and education, advancement of science and technology, and comprehensive services to establish and perfect the systems of health care and social security, and to carry out the tasks involved with population and family planning.

Article 3 The implementation of the population and family planning work shall combine with an increase in opportunities in education and employment for women, and the enhancement of women's health and the promotion of their social status.

Article 4 The people's governments at various levels and their functionaries shall, when carrying out family planning work, strictly administrate by law and enforce the law in a civilized manner, and may not infringe upon the lawful rights and interests of the citizens.

The administrative departments of family planning and their functionaries shall be under the protection of law in their execution of laws.

Article 5 The State Council shall lead the population and family planning work of the whole country.

The local people's governments at various levels shall lead the population and family planning work within their respective administrative areas.

Article 6 The administrative department of family planning under the State Council shall be responsible for the family planning work and the population work related to family planning of the whole country.

The administrative departments of family planning of the local people's governments at the level of county and above shall be responsible for the family planning work and the population work related to family planning within their respective administrative areas.

The other relevant departments of the people's governments at the level of county and above shall be responsible for the relevant population and family planning work within their respective scope of duties.

Article 7 Labor unions, the Communist Youth League, women's unions and family planning associations and other public organizations, enterprises and institutions, and citizens shall assist the people's governments in the implementation of population and family planning work.

Article 8 The State shall reward the organizations and individuals that have made notable achievements in the tasks involved with population and family planning.

Chapter 2 Formulation and Implementation of Population Development Planning

Article 9 The State Council shall draw up the population development plan and integrate it into the plan on national economic and social development.

The local people's governments at the level of county and above shall, according to the national population development planning and the population planning of the people's government at the nearest superior level, draw up the population development planning of their respective administrative areas in light of the actual circumstances of the localities, and integrate their plan into the plan on national economic and social development.

Article 10 The local people's governments at the level of county and above shall, according to the population development planning, draw up the implementation programs on population and family planning and organize the implementation.

The administrative departments of family planning of the local people's governments at the level of county and above shall be responsible for the daily work of carrying out the implementation programs on population and family planning.

The people's governments of townships, autonomous townships of ethnic minorities and towns and the urban neighborhood offices shall be responsible for the tasks involved in population and family planning within their respective administrative areas, and carry out the implementation programs on population and family planning.

Article 11 The implementation programs on population and family planning shall provide for the measures on controlling the population, improving the health care of mothers and infants, and improving quality of life.

Article 12 Villagers' committees and urban residents' committees shall regard the tasks involved with population and family planning according to law.

Departments, armies, public organizations, enterprises and institutions shall regard the tasks involved with population and family planning within their respective units.

Article 13 The departments of family planning, education, science and technology, culture, health, civil affairs, news and press, and broadcasting and television, etc. shall organize the publicity and education of population and family planning.

The public media shall bear the obligation to carry out the public welfare publicity of population and family planning.

The schools shall educate students about personal hygiene, puberty, or sex education in a planned way according to the characteristics of the students.

Article 14 The family planning tasks associated with transient populations shall be jointly managed by the people's governments of their places of origin and their current residences, and the latter shall play the main role.

Article 15 The State shall, according to the development of the national economy and social development, increase the overall level of the input of funds for population and family planning work. The people's governments at various levels shall guarantee the necessary funds for population and family planning work.

The people's governments at various levels shall give priority support to the implementation of population and family planning work in depressed and minority areas.

The State encourages public organizations, enterprises and institutions, and individuals to provide endowments for population and family planning work.

No unit or individual may withhold, pocket or appropriate the funds for population and family planning work.

Article 16 The State encourages scientific research and the exchange and cooperation with foreign countries in the area of population and family planning.

Chapter 3 Birth Regulation

Article 17 Citizens have the right of bearing, and shall also bear the obligation of practicing family planning according to law, husbands and wives shall bear joint responsibility in the implementation of family planning.

Article 18 The State stabilizes the existing birth policies, encourages citizens to marry and bear a child at a late age, and advocates that one wife bear only one child; those meeting the conditions prescribed by laws and regulations may request to bear a second child. The specific measures shall be provided for by the people's congresses or their standing committees of the provinces, autonomous regions and municipalities directly under the Central Government.

Minorities shall also practice family planning, and the specific measures shall be provided by the people's congresses or their standing committees of the provinces, autonomous regions and municipalities directly under the Central

Government

Article 19 Contraception shall play a main role in family planning.

The State creates conditions to guarantee that the citizens have knowledge of and choose safe, effective and appropriate contraception measures. Sterilization operations shall ensure the safety of those to whom the operations are performed.

Article 20 The spouses at childbearing age shall deliberately take the contraception measures of family planning, and accept the preferred techniques of family planning.

Non-intentional pregnancies shall be guarded against and reduced.

Article 21 The spouses at childbearing age who exercise family planning shall enjoy basic contraceptives free of charge as prescribed by the State.

The funds needed as prescribed in the preceding paragraph shall be brought into the finance budget or be guaranteed by social security according to the relevant provisions of the State.

Article 22 It is prohibited to discriminate or maltreat the women who bear female babies or the women who are incapable of bearing. And it is prohibited to discriminate, maltreat or abandon female babies.

Chapter 4 Awards and Social Security

Article 23 The state shall reward the spouses practicing family planning according to the provisions.

Article 24 The state shall establish and perfect the basic old-age insurance, basic health insurance, birth insurance, public welfare and other social security systems to promote family planning.

The State encourages insurance companies to set up insurance items that will encourage family planning.

The localities where there are conditions may, according to the principle of government guidance and peasants' volunteerism, apply multiple forms of safeguards for the elderly in rural areas.

Article 25 The citizens who marry and bear children at a late age may receive

the awards of extended wedding leaves, childbearing leaves or other welfare treatments.

Article 26 During the period of pregnancy, childbearing and lactation, women may enjoy special labor protection and may get help and compensation according to the relevant provisions of the State.

Citizens who receive family planning operations may enjoy the vacation as prescribed by the State, and the local people's governments may give them compensation.

Article 27 The State shall issue the Honor Certificate for the Parents of a Single Child to the spouses that voluntarily bear only one child in their lifetime.

The spouses who have obtained the Honor Certificate for the Parents of a Single Child shall, according to the relevant provisions of the State, the provinces, autonomous regions and municipalities directly under the Central Government, enjoy the awards for the parents of only child.

Where the measures on rewarding the wife who bears only one child in her life time shall be carried out by the units to which the wife belongs to as prescribed by laws, regulations or rules, and the relevant unit shall administer accordingly.

Where the only child is disabled or dead as the result of an accident and the parents do not bear or adopt another child, the local people's government shall give necessary assistance to them.

Article 28 The local people's governments at various levels shall give support and preference, in aspects such as funds, technology, and training, etc. to the economic development of the families in rural areas that practice family planning; and shall give prior consideration in aspects such as poverty-relief loans, relief in exchange for aid, poverty-relief projects and social relief, etc. to impoverished families that practice family planning.

Article 29 For the reward measures as prescribed in this Chapter, the people's congresses and the standing committees thereof of the provinces, autonomous regions, and municipalities directly under the Central Government and relatively large cities shall, according to the provisions of this Law and the relevant laws and administrative regulations, formulate the specific implementation measures in light of the actual situations of the localities.

Chapter 5 Family Planning Technology Services

Article 30 The State shall establish the pre-marriage health care system and

the pregnancy and childbearing period health care system to prevent or reduce the birth defects, and to improve the condition of health of the babies born.

Article 31 The people's governments at various levels shall take measures to guarantee that the citizens enjoy the services related to family planning and to improve the procreative health of the citizens.

Article 32 The local people's governments at various levels shall rationally arrange and fully utilize the health resources, establish and perfect the techniques of family planning service network which is composed of the techniques of family planning service agencies and the medical and health care agencies engaged in the techniques of family planning services, improve the family planning service facilities and conditions and increase the family planning service level.

Article 33 The techniques of family planning service agencies and the medical and health care agencies engaged in the techniques of family planning services shall, within their respective scope of duties, carry out the publicity and education of the basic knowledge of population management and family planning among the population at childbearing age, give pregnancy examinations and provide visitation services to married women at childbearing age, provide consultation, and education services, and techniques of family planning and procreation health care.

Article 34 The service personnel providing techniques of family planning shall direct the citizens practicing family planning to choose safe, effective and appropriate contraception measures.

It is advised for the wives that have already borne child to choose contraception measures with long-term effectiveness.

The State encourages the research, application and spreading of new family planning technologies, medicines and tools.

Article 35 It is strictly prohibited to use ultrasound technology or other technological means to identify the gender of a fetus without medical needs; and it is strictly prohibited to abort a pregnancy based on the gender of a fetus without medical needs.

Chapter 6 Legal Responsibilities

Article 36 One who has committed any of the following acts in violation of this Law shall be ordered to make corrections or be given a warning by the administrative department of family planning or the administrative department

of health, and the illegal gains shall be confiscated; where the illegal gains are not less than 10,000 Yuan, a fine of not less than 2 times but not more than 6 times of the illegal gains shall be imposed; where there is no illegal gains or the illegal gains are less than 10,000 Yuan, a fine of not less than 10,000 Yuan but not more than 30,000 Yuan shall be imposed; where the circumstances are serious, the original certificate-issuing organ shall revoke the practice certificate; where a crime is committed, the criminal acts shall be investigated according to law:

- 1) Illegally performing family planning operations for others;
- 2) Identifying the gender of a fetus or aborting the pregnancy based on gender by using ultrasound technology or other technologies for those without medical needs;
- 3) Performing false operations of birth control, using false medical identification or providing false family planning certificates.

Article 37 Where anyone forges, alters or trades family planning certificates, the administrative department of family planning shall confiscate the illegal gains, where the illegal gains are not less than 5,000 Yuan, a fine of not less than 2 times but not more than 6 times the illegal gains shall be imposed; where there is no illegal gains or the illegal gains are less than 5,000 Yuan, a fine of not less than 5,000 Yuan but not more than 20,000 Yuan shall be imposed; where a crime is committed, the criminal responsibilities shall be investigated according to law.

Where anyone obtains the family planning certificate through illegitimate ways, the administrative department of family planning shall cancel his family planning certificate; where the unit that issued the certificate has fault, the personnel in charge who are directly responsible and other directly responsible personnel shall be given administrative punishments according to law.

Article 38 Where any family planning technology service personnel operates against the rules or delays emergency treatment or diagnosis and treatment thus causing serious consequences, he shall bear corresponding legal responsibilities according to the provisions of the relevant laws and administrative regulations.

Article 39 With respect to a functionary of the state organs who has committed any of the following acts in the work of family planning, where a crime is committed, the criminal responsibilities shall be investigated according to law; where a crime has not yet been committed, he shall be given administrative punishments; and the illegal gains shall be confiscated if there are any:

- 1) Infringing upon the personal rights, property rights and other lawful rights and interests of citizens;
- 2) Abusing powers, neglecting duties or practicing favoritism or fraud;
- 3) Demanding or accepting bribes;
- 4) Withholding, pocketing, appropriating or embezzling the family planning funds or social welfare funds;
- 5) Falsely reporting, concealing the report of, forging, falsifying or refusing to report the statistic data of population and family planning.

Article 40 For those in violation of this Law, failing to perform the obligation of assisting the family planning management, the relevant local people's government shall order them to make corrections and circulate a notice of criticism, the personnel in charge who are directly responsible and other directly responsible personnel shall be given administrative punishments according to law.

Article 41 A citizen who bears children in violation of the provisions of Article 18 of this Law shall pay the social upbringing charges according to law.

Where the social upbringing charges that should be paid are not paid in full within the prescribed time limit, additional late fees shall be charged according to the relevant provisions of the State from the day of the delayed payment; where still no payment is made, the administrative department of family planning that decides the charge shall apply to the people's court for forcible punishment.

Article 42 If the person that shall pay the social upbringing charges according to the provisions of Article 41 of this Law is the functionary of state organs, he shall also be given administrative punishments according to law; other personnel shall also be given disciplinary punishments by the units or organizations to which they belong.

Article 43 Where anyone refuses or hinders the performance of official duties by the administrative department of family planning and its functionaries in accordance with law, the administrative department of family planning shall give criticism and education and shall stop those acts; where a violation against public order control is committed, punishments with respect to management of public security shall be given according to law; where a crime is committed, the criminal responsibilities shall be investigated according to

law.

Article 44 Where any citizen, law-related person or other organization deems that the administrative department has infringed upon its lawful rights and interests in the course of family planning management, it may apply for administrative review or file an administrative action according to law.

Chapter 7 Supplementary Provisions

Article 45 The specific management measures on the family planning work of transient population, the specific management measures on techniques of family planning services and the management measures on the collection of social welfare charges shall be formulated by the State Council.

Article 46 The specific measures for the People's Liberation Army of China on the implementation of this Law shall be formulated by the Central Military Committee according to this Law.

Article 47 This Law shall come into force on September 1, 2002.