

Family Protection Law*

Chapter One: Family Court

Article 1: In order to investigate family affairs and claims litigations, within three years from the date of enactment of the present law, the Judiciary is required to establish a sufficient number of benches of family court in all judicial districts of counties. The establishment of this court in the judicial districts is contingent upon the view of the head of the Judiciary in light of facilities.

Note1: From the date of enforcement of the present law, as long as the jurisdiction districts of certain counties remain without a family court, the Court of Common Pleas based in that jurisdiction shall, in accordance with the relevant procedures and the provisions of the present Act, examine family affairs and claims.

Note2: In the judicial jurisdictions of the counties where no family court has been established in, any other court based in that jurisdiction, in compliance with the relevant procedures and the provisions of the present Act, shall examine all family affairs and claims except for lawsuits pertaining to the validity of marriage and its dissolution, which shall be examined (heard) by a family court located in the nearest judicial district.

Article 2: The family court sessions are to be held in the presence of the presiding judge or his substitute and a female advocate judge. The advocate judge must file her written and substantiated counsel about the lawsuit within three days following the conclusion of the proceedings. The judge who issues the judgment is required to refer to the counsel of the advocate judge in his written judgment, and if he disagrees with her opinion, should reject her counsel with explanation.

Note: The judiciary is required to appoint advocate judge to all family courts within five years and until then it can recruit a male advocate judge who is qualified to sit at family courts.

* This is an unofficial translation and any liability whatsoever shall lie upon user in person. Islamic Parliament of Iran

Article 3: Family court judges are required to be married and have at least four years of experience in the judiciary.

Article 4: The affairs and litigations listed below shall lie within the jurisdiction of family courts:

- 1- Engagement and damage caused by its dissolution
- 2- Permanent marriage, temporary marriage and consent for marriage
- 3- Conditions in marriage contract
- 4- Remarriage
- 5- Dowry
- 6- Marriage portion
- 7- Wife's alimony and quantum meruit for conjugal period
- 8- Wife's obedience or disobedience
- 9- Divorce, revocation of divorce, voluntary and involuntary termination of marriage, dispensing and expiry of remaining time in temporary marriage
- 10- Child custody and parental visitation right
- 11- Parentage
- 12- Maturity, incapacity and its removal
- 13- Natural guardianship, tutorship, affairs related to sequestrator of alieni juris' property and executorship in their affairs
- 14- Relatives alimony
- 15- Affairs related to untraceable absentee
- 16- Guardianship of guardianless children
- 17- Fetus donation
- 18- Sex change

Note: The claims filed by individuals under Articles 12 and 13 of the Constitution, are heard, according to the circumstances, in accordance with the "Law on Respecting Personal Status of Non-Shia Iranians in Courts" enacted on 21/07/1933, and the "Law on hearing Claims About Personal Status and Religious Education of Iranian Zoroastrians, Jews and Christians" enacted on 24/06/1993 by the Expediency Council.

Decisions by supreme authorities of the aforementioned religious minorities in non-litigious affairs and their personal status, including marriage and divorce, are valid and endorsed and enforced by courts with exemption from procedure of proceedings.

Article 5: In case of financial incapacity of any parties to litigation, the court shall ascertain the party's circumstances before deciding to exempt him/her from payment of costs of proceedings, expertise fees, arbitration fees and other expenses, or to defer payment until the time of execution of the court sentence. Also, in case of necessity or in case of obligation to retain a lawyer, the court by itself or at the request of the financially incapable person may appoint a legal aid.

Note: Persons sponsored by the Imam Khomeini Relief Committee and the State Welfare Organization are exempt from paying costs of court proceedings.

Article 6: The mother or any person else who is looking after the child or interdicted person out of necessity is entitled to claim alimony for the child or the interdicted person. In this case, the court must first investigate the claim of necessity.

Article 7: In cases such as custody, guardianship and visitation of child and alimony for woman and interdicted person, when there is an urgency for decision, the court can at the request of either party issue an interim order before taking the final decision on the subject of the lawsuit. This order is enforceable without the approval of the presiding judge in the judicial district.

If the court fails to decide on the lawsuit within six months the issued interim order will be automatically invalid and ineffective unless the court reissues an interim order by virtue of the same Article.

Article 8: Proceedings in family courts are conducted after a lawsuit is filed and without any obligation to respect the civil procedure law.

Note: Anytime the plaintiff declares that the defendant is of no fixed abode he must declare the last abode of the defendant to the court. The court shall conduct investigation and make decision appropriately according to the circumstances.

Article 9: The procedures and notices in the family court are subject to the regulations of civil procedure code applied to Public courts and Islamic Revolution courts. Nonetheless, if the

parties propose another way of communications like mail, fax, telefax and e-mail, the court may agree to serve rulings accordingly. In any case, the authenticity of right notice shall rest with the court.

Article 10: The court may defer hearing sessions at the request of couples or one of them for a maximum of two times in order to provide a chance for reconciliation.

Article 11: In financial lawsuits, which are subject of present law, the winning party, after the issuance of the final verdict and before the commencement of its execution, may request security for judgment debt from the court that issued the preliminary verdict.

Article 12: In litigations and family affairs related to the couples, the wife can file a lawsuit with a court either in the judicial district of her own or the defendant's residence unless the litigation is about claiming immovable marriage portion.

Article 13: Whenever couples file lawsuits, which lie within the jurisdiction of family courts, against each other in multiple judicial districts on the issue, the court presented with the first lawsuit is competent to hear the case. If two or more lawsuits are submitted in a single day the court competent to hear the wife's litigation shall investigate all lawsuits.

Article 14: If either the husband or the wife is a resident of a foreign country, the court in the residence of the party residing in Iran will be competent to hear the lawsuit. If the husband and wife are both residents in a foreign country, but one of them has temporary residence in Iran, the court of residence of the person living in Iran will be competent to hear the lawsuit, and if both have temporary residence in Iran, the court of the temporary residence of the wife will be competent to hear the lawsuit. If neither lives in Iran the court in Tehran County will be competent to hear the lawsuit, unless the spouses agree to file the lawsuit in another judicial district.

Article 15: If the Iranians residing in foreign countries file their family affairs and litigations with competent courts and judicial organs in their place of residence, the judgments of these courts or organs will not be enforced in Iran unless a competent court in Iran examines these judgments and validates their effect.

Note: Registration of cases of divorce by Iranians residing abroad with the consulates of the Islamic Republic of Iran is possible at the written request of husband and wife together or husband alone by providing certificate of divorce issued by qualified persons nominated by the Ministry of Foreign Affairs and certified by the head of the Judiciary. Registration of revocable divorce is subject to the expiry of wife's viduity period.

In irrevocable divorce, the wife can also register her divorce by filing a written request and providing certificate of divorce issued by the above-mentioned competent authorities with the consulates. In cases where the divorce is registered at the request of the husband, the wife can in compliance with present law refer to courts in Iran to claim her legal rights.

Chapter two: Family Counseling Centers

Article 16: In order to strengthen the foundations of family and reduce family disputes and cases of divorce and in an effort to facilitate reconciliation, within three years from the date of enforceability of present law, the Judiciary is required to establish family counseling centers alongside family courts.

Note: In areas where there are counseling centers affiliated with the State Welfare Organization, courts can benefit from the potentialities of these centers.

Article 17: The family counseling centers staff are chosen from different fields of expertise such as family studies, counseling, psychiatry, psychology, social assistance, law, fiqh and fundamentals of Islamic law. At least half of the members of each center are required to be qualified married women. The number of staff, the way of choosing them, selection process, training and modus operandi for investigating infractions by the staff of family counseling centers, fulfilment of obligations and the number of these centers as well as counselling service fees and payment procedure are subject to a bylaw which is drawn up by Minister of Justice within six months from the enforcement of the current Law and is approved by the head of the Judiciary.

Article 18: In the judicial districts where family counseling centers are established, the family court can, if need be, ask for the centers' advice about family affairs and matrimonial litigations after specifying the subject of dispute and setting a deadline.

Article 19: Family counseling centers, while providing counseling services to couples, fulfil the court requirements within the deadline and try to reconcile husband and wife in relevant cases. The said centers, in case they manage to cause reconciliation, shall draw up a letter of reconciliation; otherwise, they announce their written and substantiated expert advice about the cause and reasons of non-conciliation to the court.

Note: The court shall consider the family counseling centers' expert advice before issuing the judgment at its own discretion.

Chapter Three: Marriage

Article 20: Registration of permanent marriage, and its voluntary or involuntary termination, divorce, revocation of divorce and declaring nullity of marriage or divorce is obligatory.

Article 21: The legal system of the Islamic Republic of Iran in support of the centrality and solidity of family relations supports permanent marriage as the foundation of family. Temporary marriage is also subject to the Sharia criteria and Civil Code provisions and its registration is required in the following cases:

- 1) Wife pregnancy
- 2) Mutual agreement
- 3) Proviso

Note: Registration of matters that are subject of this Article and Article 20 of present law in the Registry of Marriage shall be in accordance with a bylaw which, within one year, is approved by the head of the Judiciary at the recommendation of Minister of Justice, and until the adoption of the said directive, the provisions set out in Article 1 of about Marriage law enacted on 18/05/1937 remain in effect.

Article 22: When the marriage portion at the time of marriage contract is valued at up to 110 full-size gold coins or its equivalent, its collection shall be subject to the provisions of Article 2 of the Law on Execution of Financial Convictions. If the marriage portion is valued more than the said

amount, for the surplus, the solvency of husband shall be the sole criterion for payment. Regulations set forth for calculating the marriage portion at market price shall be respected.

Article 23: The Ministry of Health, Treatment and Medical Education shall have one month from the date of enforcement of the current Law to specify and announce diseases against which the future couple is required to be vaccinated against before marriage as well as contagious and dangerous diseases threatening the couples and future children. Before registering marriages, Registries of Marriages are required to request the parties to present for filing certificates issued by physicians and centers certified by Ministry of Health, Treatment and Medical education confirming non-addiction to narcotics and non-affliction with diseases set forth in this Article or vaccination of the parties against the said diseases.

Note: If the issued certificate signifies drug addiction or disease, registration of marriage is permitted if the parties are informed of. For dangerous and contagious diseases designated and announced by Ministry of Health, Treatment and Medical Education, the parties shall be referred to designated centers for care and monitoring. In cases where Ministry of Health, Treatment and Medical Education declares that the couples' affliction with a dangerous disease will harm the fetus, care and monitoring should also include prohibition of reproduction.

Chapter Four: Divorce

Article 24: Divorce and other cases leading to dissolution of marriage, as well as the declaration of nullity of marriage or divorce can be registered with Registry of Marriage following the issuance of certificate of incompatibility or judgment.

Article 25: If couples agree on uncontested divorce the court must refer the matter to a family counseling center. In such cases, parties can file for uncontested divorce with the said centers. If the applicants do not withdraw their request for divorce, the family counseling center will refer the case to court for final decision after specifying reasons of mutual consent.

Article 26: If the divorce is uncontested or at the request of husband the court will issue a certificate of incompatibility and if it is at the request of wife, according to the circumstances, the court shall

in accordance with law, oblige the husband to divorce or establish conditions to exercise the right to proxy.

Article 27: In all cases of divorce petition, except for an uncontested divorce, the court must refer the matter to arbitration for reconciliation. In these cases the court should issue a judgment based on the arbitrators' advice and if it does not agree with the advice it shall offer reasons for its disapproval.

Article 28: After the issuance of order for referral to arbitration, the husband and wife shall have each one week from the date of notice to introduce one of their married relatives who is at least thirty years old and familiar with religious, family and social matters as arbitrator to the court.

Note 1: The wife's consanguine relatives who have lost their spouses or are divorcees will be accepted as arbitrator in case they fulfill conditions set forth in this Article.

Note 2: In the absence of a qualified person among relatives or lack of access to them or their refusal to adjudicate, either husband or wife may nominate an arbitrator from qualified individuals. In the event of the couple's refusal to introduce an arbitrator or their incapacity to do so the court by itself or at the request of either of the parties appoint an arbitrator.

Article 29: The court shall issue its verdict after considering the terms and conditions of marriage stipulated in the certificate of marriage and decide about the dowry, marriage portion, wife's alimony, children and unborn child's maintenance, as well as quantum meruit for conjugal period by virtue of provisions of Article 336 of Civil Code, and make decision on child custody and care as well as payment of costs of custody and maintenance. Furthermore, in light of child's emotional attachment and interests the court must determine the order, time and place of visitation by parents and other relatives. Divorce registration is contingent upon respecting wife's financial rights. Divorce is also registered in the event of the wife's consent or issuance of a final verdict confirming the husband's insolvency or installment of debt. However, whenever the wife agrees to the registration of divorce without receiving the said rights, she may, after registering the divorce, receive these rights through the Judicial Execution Office in accordance with the relevant regulations.

Article 30: In case which the wife proves in court that she has dipped into her own assets for conjugal life spendings which are incumbent upon the husband at the order of the husband or with his permission and the husband fails to prove the wife's animus donandi, she can claim the equivalent sum from him.

Article 31: Presenting certificate signed by a competent physician on whether or not a fetus has developed is required for registering divorce unless the couples agree on the development of fetus.

Article 32: Pronouncement of divorce formula and its registration, according to the circumstances, is contingent upon the expiry of appeal deadline or notice of final vote.

Article 33: The decree of divorce is valid for six months starting from the date of the notice of final judgment or the expiry of the appeal deadline. If the decree of divorce is submitted by the wife to Registry of Marriage, in case the husband fails to appear in the notary office within one week from the date of service, the notary will notify the couple to appear for the pronouncement of divorce formula and its registration. In the absence of the husband and his failure to present an excuse or his refusal to turn up, the divorce formula will be pronounced and registered before being served on the husband. In case the husband presents an excuse the couple will be invited one more time in the aforesaid order.

Note: The court issuing the decree of divorce must state the head of notary's representation of the husband in the execution of divorce in the event of the husband's refusal to do so.

Article 34: The certificate of incompatibility remains valid for three months starting from the date of service of final decree to be presented to the Registry of Marriage. If the certificate is not submitted within the said deadline or the party who presents it to the Registry of Marriage fails to appear within three month from the date of submission or fails to present the required document, the issued certificate will be null and void.

Note: Anytime the certificate of incompatibility issued on the basis of mutual consent is declared null and void in accordance with the present law, all agreements upon which the certificate has been issued will be null and void.

Article 35: If the husband refers to Registry of Marriage within the deadline and submits the certificate of incompatibility but the wife fails to appear in the office within one week, the notary

will serve notice to both husband and wife to turn up for the pronouncement of divorce formula and its registration. In the absence of the wife, the divorce will be granted and the wife will be notified after registration.

Note: The space between the service of notice and the session of pronouncement of divorce under this Article and Article 34 of present law must not be less than a week. In cases which the husband or wife have no fixed abode, they shall be invited to Office through publication of notice in large circulation newspapers at the expense of the applicant.

Article 36: If the certificate of incompatibility is issued on mutual consent between husband and wife, in case the wife represents the husband by irrevocable power of attorney based on the declaration of the court that has issued the decree or by virtue of an official document, the absence of husband could not prevent the pronouncement and registration of divorce.

Article 37: The pronouncement of the formula of divorce is carried out in accordance with religious law in the notary public or elsewhere in the presence of the notary.

Article 38: In revocable divorce, the divorce formula shall be pronounced in accordance with current regulations and noted in the proces-verbal. But registration of divorce is contingent upon a written certificate signed by at least two witnesses on the fact that the divorced wife had stayed at the conjugal residence until the end of viduity period, unless the woman favors the registration of divorce. In case of revocation, the proces-verbal will be declared null and void and otherwise the proces-verbal shall be completed and divorce shall be registered. The notary, couples or their representatives and two witnesses shall sign the completed proces-verbal. On request, the wife will be given a certificate of divorce and irrevocability. Nonetheless, in case of the expiry of the viduity period and non-establishment of revocability, the divorce shall be registered.

Article 39: In all cases, the conclusiveness and enforceability of the certificate of incompatibility or the decree of divorce must be certified by the court of first instance and simultaneously be presented to Registry of Marriage.

Chapter Five: Custody and Maintenance of Children and Alimony

Article 40: Anyone who refuses to comply with the court ruling regarding the custody of child or blocks its enforcement or refuses to return the child shall be arrested at the request of the beneficiary and the order of the court of first instance until the ruling is executed.

Article 41: Anytime the court determines that agreements on visitation, custody, maintenance and other matters relating to the child are not in the interest of the child, or if the custodian refuses to fulfill obligations assigned to him or denies the child visitation from rightful persons, it shall take the appropriate decision on such matters as assignment of custody to others, or appointment of a monitor by defining the scope of his oversight and by considering the interests of child.

Note: The Judiciary is required to work out appropriate mechanisms for the parents' visitation in the best interest of family and child. The executive bylaw of this Article is drawn up within six months by Ministry of Justice to be approved by the head of the Judiciary.

Article 42: Minors and lunatics cannot be moved from the residence agreed upon by the parties or the residence prior to the occurrence of divorce to another place or abroad without the consent of guardian, tutor, mother or the person to whom custody and maintenance have been assigned, unless the court deems it in the interest of the minor or lunatic and authorize such a displacement after considering the visitation right of rightful people. If the court authorizes moving the minor or lunatic from the country, at the request of the beneficiary, it shall demand an appropriate security deposit to guarantee the return of the minor or lunatic.

Article 43: The custody of children whose parents have died rests with their mothers unless the court, at the request of natural guardian or prosecutor, deems assignment of custody to mother against the child's interest.

Article 44: If executive agencies subject to Article 5 of the "Law on State Services Management" enacted on 28/09/2007 are required to convey properties to minors or other incapacitated individuals, at the discretion of prosecutor, these properties must be given to the tutor and guardian of the incapacitated individuals to provide standard living expenses unless otherwise provided by the court.

Article 45: Respecting the interests of minors and young adults is mandatory in all decisions adopted by courts and executive authorities.

Article 46: The presence of the children under fifteen years of age in family litigation proceedings is prohibited except in necessary cases prescribed by court.

Article 47: The court, upon request of wife or other persons entitled to maintenance, determines the amount of alimony and arrangements or reimbursement.

Note: As far as this Article and other matters where the court orders regular collection of sums from the losing party, a one-time request for the issuance of writ of execution will suffice and enforcement proceedings shall continue as long as the court does not issue any other order.

Chapter Six: Monthly Salary and Pension

Article 48: The amount of monthly salary or pension of the deceased's permanent wife, children and his other heirs-at-law, and the manner of division in all pension funds, including state and military officials and Social Security and other special funds, are as follows:

1) The permanent wife of the deceased is entitled to his salary or pension and her remarriage shall not prevent collection of the said salary, and in the event of the death of the next husband and her enjoyment of right to his salary, the maximum pension shall be valid.

Note: If the deceased has several permanent wives the salary or pension is divided equally between them and other heirs-at-law.

2) Enjoyment of retirement or disability pensions under certain circumstances by the deceased's wife does not prevent her from collecting the deceased's salary or pension.

3) The female children who have no job and are not married and the male children under 20 years of age, and over 20 years of age exclusively if they are disabled or they study at universities, are entitled to children's allowance, survivors' insurance and pension, or their parents' pension according to the circumstances.

4) The share permanent wife, children and other heirs-at-law from the salary or pension of all employees and retirees' shall be paid in accordance with Article 87 of National Employment Law

enacted on 21/06/1966 and subsequent amendments thereto and in accordance with Article 86 of the same Law and subsequent amendments thereto.

Note: The provisions of this Article shall also apply to persons who have died before the enforcement of present law.

Chapter 7: Criminal Procedure Rules

Article 49: If a man gets married permanently, gets divorce, or terminates marriage without registration in a Registry of Marriage, or after revocation he still refuses to register it or in certain cases where temporary marriage registration is required refuses to register, he will be required to register the event and will be sentenced to fifth-degree pecuniary penalty or seventh-degree imprisonment. This punishment also applies to a man who refuses to register the automatic termination of marriage termination, or declare the nullity of marriage or divorce.

Article 50: If a man gets married contrary to the provisions of Article 1041 of Civil Code he will be sentenced to sixth-degree imprisonment. If the marriage leads to sexual intercourse that will end in defect or permanent illness of the wife, the husband in addition will be sentenced to blood money (paying diyah) and fifth-degree imprisonment, and if the intercourse leads to the death of wife the husband will be sentenced to blood money and fourth-degree imprisonment.

Note: If the natural guardian, mother, legal tutor, or the person responsible for maintenance and care of the wife is proven to have been directly involved in the commissioning of the crime set forth in this Article he will be sentenced to sixth-degree imprisonment. This sentence shall also apply to solemnizer of marriage.

Article 51: Any foreigner who marries an Iranian woman without obtaining the permission referred to in Article 1060 of Civil Code or in contravention of other legal provisions will be sentenced to fifth-degree imprisonment.

Article 52: Any party who denies conjugality in the court but his denial is later proven to have been unfounded, or in contrast to facts he claims conjugal life with someone else by filing a complaint or litigation he will be sentenced to sixth-degree imprisonment or sixth-degree

pecuniary penalty. This sentence also applies to the legal representatives of the aforementioned individuals who despite their knowledge of conjugality deny it in court or despite knowledge of non-conjugality files a complaint or litigation claiming conjugality.

Article 53: Any solvent person who refuses to pay his wife's alimony despite her submission, or refuses to reimburse others who are entitled to maintenance he will be sentenced to sixth-degree imprisonment. Prosecution is subject to a private plaintiff filing a complaint and if the plaintiff gives up the claim at any time, the prosecution or the execution of punishment will be stayed.

Note: The provisions set out in this Article also apply to refusal to pay the alimony to a wife who is legally allowed to be non-submissive, as well as the alimony of children born out of artificial insemination or children under guardianship.

Article 54: If the person responsible for custody refuses to fulfill the required obligations or denies the child the right to be visited by rightful persons, he will primarily sentenced to eighth-degree pecuniary penalty. In case of repetition, he will be sentenced to maximum punishment meted out to such an offense.

Article 55: Any physician who deliberately and contrary to the fact issues the certificate subject to Articles 23 and 31 of present law or refuses to issue the certificate mala fides refuses to grant this certificate, he will primarily be sentenced to sixth-degree deprivation of practicing medicine as stipulated in the Islamic Penal Code and in case of repetition he will be sentenced to maximum punishment meted out to such an offense.

Article 56: Any official notary, who without the certificate of the subject matter of Articles 23 and 31 of present law, or without the permit referred to in Article 1060 of Civil Code, or the decree authorizing remarriage or contrary to the provisions of Article 1041 of Civil Code registers marriage or without a court ruling or certificate of incompatibility or certificate subject to Article 40 of present law or upholding foreign judgements registers any of the causes of dissolution of a marriage or declares a marriage or divorce null and void, will be sentenced to fourth-degree deprivation of practicing law in accordance with the Islamic Penal Code.

Article 57: The executive bylaw of the present law, proposed by Minister of Justice, is approved by the head of Judiciary.

Article 58: From the date of enforcement of present law, the following laws will be considered null and void:

- 1) Marriage Law, enacted on 15/08/1931
- 2) Law on Denial of Marriage, enacted on 10/05/1932
- 3) Law on Amendments to Articles 1 and 3 of Marriage Law, enacted on 19/05/1937
- 4) Law on Obligation of Presenting Medical Certificate for Marriage, enacted on 04/12/1938
- 5) Law on Granting Custody of Minors or Incapacitated Children to Mother, enacted on 28/07/1985
- 6) Law on Custody Right, enacted on 13/07/1986
- 7) Law on Obligation of Tetanus Vaccine for Women Prior to Marriage, enacted on 12/04/1988
- 8) Law on Amendments to Provisions of Divorce, enacted on 12/03/1993, except for Clause B of Note 6 , as well as the Law on Interpretation of Notes 3 and 6 of the aforementioned Law, enacted on 25/08/1994
- 9) Articles 642, 645, 646 of the Islamic Penal Code, enacted on 22/05/1996
- 10) Law on Assignment of a Number of Courts to Examine Subject Matters of Article 21 of the Constitution, enacted on 30/07/1997
- 11) Law on Determination of Validity of Certificate of Incompatibility, enacted on 02/11/1997

The above Law, which is drafted in 58 articles, was enacted in the open session of the Islamic Parliament of Iran on Tuesday 19/02/2013, and was endorsed by the Council of Guardians on 28/02/2013.

President of Islamic Parliament of Iran

Ali Larijani