CODE OF THE REPUBLIC OF KAZAKHSTAN

On Marriage and Family

CONTENTS

GENERAL PART

SECTION 1. GENERAL PROVISIONS

CHAPTER 1. Marriage and Family Laws of the Republic of Kazakhstan

Article 1. Basic Concepts used in the Present Code
Article 2. Basis of the Marriage and Family Laws of the Republic of Kazakhstan
Article 3. Relations Regulated by the Marriage and Family Laws of the Republic of Kazakhstan
Article 4. Marriage and Family Laws of the Republic of Kazakhstan
Article 5. Application of the Civil Laws to Marriage and Family (Marital and Family) Relations

CHAPTER 2. Application and Protection of Marriage and Family (Marital and Family) Rights

Article 6. Implementation of Rights and Obligations in Marriage and Family (Marital and Family) relations
Article 7. Protection of Marriage and Family (Marital and Family) Rights
Article 8. Application of Legal Limitation in Marriage and Family (Marital and Family) Relations

SECTION 2. MARRIAGE (MATRIMONY)

CHAPTER 3. CONDITIONS AND PROCEDURE OF MARRIAGE (MATRIMONY)

Article 9. Conditions of Marriage (Matrimony)
Article 10. Marriage (Matrimony) Age
Article 11. Persons not Allowed to Get Married
Article 12. Health Survey of the Persons Getting Married
Article 13. The Procedure of Marriage Conclusion
CHAPTER 4. MARRIAGE (MATRIMONY) TERMINATION

Article 14. Marriage (Matrimony) Termination
Article 15. Marriage (Matrimony) Termination due to the Death of one of the Spouses, Declaration of Death or Recognition of Missing
Article 16. Marriage (Matrimony) Dissolution
Article 17. Marriage (Matrimony) Dissolution in Bureaus of Civil Registration of the Territorial Justice Agency
Article 18. Consideration of Disputes between the Spouses at Marriage (Matrimony) Dissolution
Article 19. Marriage (Matrimony) Dissolution in a Judicial Proceeding
Article 20. Marriage (Matrimony) Dissolution in a Judicial Proceeding when One of the Spouses does not Give the Consent for Marriage (Matrimony) Dissolution
Article 21. Marriage (Matrimony) Dissolution in a Judicial Proceeding for other Reasons
Article 22. Issues Proceeded by the Court at Rendering the Decision on Marriage (Matrimony) Dissolution
Article 23. The Truncation Point of Marriage (Matrimony) Termination under its Dissolution
Article 24. The Effect of Marriage (Matrimony) Termination

CHAPTER 5. INVALIDITY OF MARRIAGE (MATRIMONY)

Article 25. Marriage (Matrimony) Invalidation
Article 26. Persons Entitled to Require Marriage (Matrimony) Invalidation
Article 27. The Circumstances Removing Marriage (Matrimony) Invalidation
Article 28. The Effect of the Marriage (Matrimony) Invalidation

CHAPTER 6. PERSONAL RIGHTS AND OBLIGATIONS OF THE SPOUSES

Article 29. Creation of Spouses’ Rights and Obligations
Article 30. The Equality of Spouses in Family
Article 31. The Right of Choice of Surname by the Spouses

CHAPTER 7. PROPERTY RIGHTS AND OBLIGATIONS OF THE SPOUSES

§ 1. The Legal Order of the Spouses’ Property

Article 32. The Concept of the Legal Order of the Spouses’ Property
Article 33. Joint Property of Spouses
Article 34. Possession, Use and Disposal of Spouses’ Joint Property
Article 35. Property of Each of the Spouses
Article 36. Recognition the Ownership of Each of the Spouses’ as their Joint Property
Article 37. Division of Spouses’ Joint Property
Article 38. Determination of Shares at Division of Spouses’ Joint Property

§ 2. Treaty Regime of the Spouses’ Property

Article 39. Marriage Contract
Article 40. Conclusion of Marriage Contract
Article 41. The Content of the Marriage Contract
Article 42. Modification and Dissolution of Marriage Contract
Article 43. Invalidation of Marriage Contract

§ 3. Responsibility of the Spouses upon Obligations

Article 44. Execution upon Spouses’ Property
Article 45. Guarantee of Creditor Rights at Marriage Contract Conclusion, Modification and Dissolution

SECTION 3. FAMILY

CHAPTER 8. ESTABLISHMENT OF CHILD’S BIRTH

Article 46. Reasons for Creation of Rights and Obligations of Parents/Parent and Child
Article 47. Establishment of Child’s Birth
Article 48. Establishment of Paternity in a Judicial Proceeding
Article 49. Acknowledgement of Paternity by the Court Decision
Article 50. Record of Parents (Parent) of the Child in the Child Birth Register Book
Article 51. Avoidance of Paternity (Maternity)
Article 52. Rights and Responsibilities of the Child born by Persons not married Together
Article 53. Privacy, Individual and Family Secret

CHAPTER 9. SURROGATE MATERNITY AND THE APPLICATION OF ASSISTED REPRODUCTIVE TECHNIQUES AND TECHNOLOGIES

Article 54. Surrogate Maternity Agreement
Article 55. Content of surrogate maternity agreement
Article 56. Requirements to a Surrogate Mother
Article 57. Rights and Responsibilities of the Parties of Surrogate Maternity Agreement
Article 58. Application of assisted reproductive techniques and technologies
Article 59. Legal Consequences of Surrogate Maternity Agreement or the application of assisted reproductive techniques and technologies

CHAPTER 10. CHILD RIGHTS

Article 60. Right of the Child to Live and Be Brought Up in a Family
Article 61. Right of the Child for Communication with Parents and other Relatives
Article 62. The Right of the Child to Express His/Her Opinion
Article 63. The Right of the Child for Name, Patronymic Name and Surname
Article 64. Change of Name and/or Surname of the Child
Article 65. Ethnic Origin of the Child
Article 66. Property Rights of the Child
Article 67. Child’s Right to Protection of his/her Right and Legitimate Interests

CHAPTER 11. PARENTAL RIGHTS AND DUTIES

Article 68. Equality of Rights and Duties of Parents
Article 69. Rights of Underage Parent(s)
Article 70. Parental Rights and Duties of Upbringing and Education of a Child
Article 71. Parental Rights and Obligations of Protection of Child’s Rights and Interests
Article 72. Execution of Parental Rights to the Benefit of a Child
Article 73. Execution of Parental Rights by a Parent Living Separately from a Child
Article 74. Parents' Right for Reclamation of a Child from Other Persons

CHAPTER 12. DEPRIVATION AND RESTRICTION OF PARENTAL RIGHTS

Article 75. Deprivation of Parental Rights
Article 76. The Order of Deprivation of Parental Rights
Article 77. Consequences of Deprivation of Parental Rights
Article 78. Restoration of Parental Rights
Article 79. Restriction of Parental Rights
Article 80. Consequences of Limitation of the Parental Rights
Article 81. Cancelling Limitation of the Parental Rights
Article 82. Removal of the Child when there is an Instant Danger to Life of the Child or His (Her) Health
Article 83. Decision Enforcement of the Child Removal Court

CHAPTER 13. CHILD ADOPTION

Article 84. Children Allowed to be Adopted
Article 85. Rights and Obligations of the Persons Wishing to Adopt the Children
Article 86. Rights and Obligations of the Adoptive Parent
Article 87. Procedure of Child Adoption
Article 88. Attachment of the Rights and Obligations of the Adoptive Parent
Article 89. Registration of the Children Subject to be Adopted and the Persons Wishing to Adopt the Children
Article 90. Adoption of Several Children
Article 91. Persons Entitled to be the Adoptive Parents
Article 92. Age Difference between the Adoptive Parent and the Adopted Child
Article 93. Consent of Legal Representatives to Child Adoption
Article 94. Adoption of the Child without Consent of His (Her) Parents (Parent)
Article 95. Consent of the Child to Adoption
Article 96. Consent to Adoption of the Child by One of the Spouses
Article 97. Name, Patronymic and Surname of the Adopted Child
Article 98. Change of Date and Place of Birth of the Adopted Child
Article 99. Registration of the Adoptive Parents as Parents of the Adopted Child
Article 100. Legal Consequences of the Child Adoption
Article 101. Preservation of the Right to Allowances and Other Social Benefits by the Adoptive Child
Article 102. The Secrecy of Adoption of the Child
Article 103. Adoption Annulment
Article 104. Persons Entitled to Annul the Adoption
Article 105. Consequences of the Adoption Annulment
Article 106. Reason for Cancellation of Child Adoption
Article 107. Cancellation of the Child Adoption
Article 108. Persons Possessing the Right to Ask for Cancellation of the Child Adoption
Article 109. Consequences of the Adoption Cancellation
Article 110. Inadmissibility to Cancel the Adoption upon Attainment of Majority by Adopted Child

CHAPTER 14. ACCREDITATION OF ADOPTION AGENCIES

Article 111. General Provisions
Article 112 Procedure of Agency Accreditation
Article 113. Extension, Suspension and/or Early Cessation of Activity of Branches and/or Representative Offices of the Agencies
Article 114. Rights and Obligations of Branch and/or Representative Office of the Agency on Child (Children) Adoption

SECTION 4. GUARDIANSHIP OR TRUSTEESHIP

CHAPTER 15. DETECTION AND PLACEMENT OF ORPHANS AND CHILDREN DEPRIVED OF PARENTAL CARE

Article 115. Protection of the Rights and Interests of the Orphans and Children Deprived of Parental Care
Article 116. Form of Protection of the Rights and Interests of Orphans and Children Deprived of Parental Care
Article 117. Detection and Registration of the Orphans and Children Deprived of Parental Care
Article 118. Placement of the Orphans and Children Deprived of Parental Care

CHAPTER 16. GUARDIANSHIP OR TRUSTEESHIP METHOD

Article 119. Persons Subject to be Guarded
Article 120. Functions of the State on Guardianship or Trusteeship
Article 121. Establishment of Guardianship or Trusteeship
Article 122. Guardians and Trustees

CHAPTER 17. LEGAL STATUS OF THE GUARDIANS (TRUSTEES) AND PERSONS UNDER GUARDIANSHIP

Article 123. Rights of the Persons under Guardianship or Trusteeship
Article 124. Rights of the Orphans, Children Deprived of Parental Care and Living in the Education, Medical and Other Facilities
Article 125. Duties Discharged by the Guardians (trustees)
Article 126. Rights and Obligations of the Guardian (Trustee) of the Child
Article 127. Guardianship of the Able Persons
Article 128. Property Administration of the Person under Guardianship
Article 129. Releasing and Suspending Guardians and Trustees from Their Obligations
Article 130. Guardianship or Trusteeship Cessation
Article 131. Appealing Actions of the Guardians and Trustees
Article 132. Appealing Decisions of the Guardianship Authorities

CHAPTER 18. FOSTER CARE
Article 133. Foster Care
Article 134. Contract on Child Foster Care
Article 135. Fosterers
Article 136. Child (Children) Subject to be under Foster Care
Article 137. Maintenance of the Child (Children) Given to the Fosterers

SECTION 5. ALIMENTARY RELATIONS OF FAMILY MEMBERS

CHAPTER 19. ALIMENTARY OBLIGATIONS OF PARENTS AND CHILDREN

Article 138. Obligations of Parents to Support their Minor Children
Article 139. Amount of Alimony Recovered to Support Minor Children in a Judicial Procedure
Article 140. Types of Salary and/or Other Income from which Alimony to Support Minor Child (Children) are Deducted
Article 141. Recovery of Alimony to Support Children in Lump Sum
Article 142. Recovery and Usage of Alimony to Support Children Deprived of Parental Care
Article 143. The Right of Disabled Adult Children for Alimony
Article 144. Participation of Parents (Parent) in Additional Payments to Support Children
Article 145. Responsibilities of Adult Children to Support Parents (Parent)
Article 146. Participation of Adult Children in Additional Costs to Support their Parents (Parent)

CHAPTER 20. ALIMENTARY OBLIGATIONS OF SPOUSES AND FORMER SPOUSES

Article 147. Mutual Support Responsibilities of Spouses
Article 148. The Right of Former Spouse to Receive Alimony after Marriage (Matrimony) Dissolution
Article 149. Amount of Alimony Recovered for Spouses and Former Spouses in a Judicial Procedure
Article 150. Release of Spouse from the Responsibility to Support the Other Spouse or Timeline Limitation of this Responsibility

CHAPTER 21. ALIMENTARY OBLIGATIONS OF OTHER FAMILY MEMBERS

Article 151. Responsibilities of Able bodied Siblings to Support their Minor Siblings
Article 152. Responsibilities of Grandparents to Support their Grandchildren
Article 153. Responsibility of Grandchildren to Support their Grandparents
Article 154. Responsibility of Foster Children to Support their Actual Fosterers
Article 155. Responsibility of Stepchildren to Support their Stepparents
Article 156. Amount of Alimony Recovered for Other Family Members in a Judicial Procedure

CHAPTER 22. ALIMONY PAYMENT AGREEMENT

Article 157. Conclusion of Alimony Payment Agreement
Article 158. Alimony Payment Agreement Form
Article 159. Procedure of Conclusion, Fulfillment, Modification, Termination and Cancellation of Alimony Payment Agreement
Article 160. Cancellation of Alimony Payment Agreement Violating Interests of Alimony Recipient
Article 161. Amount of Alimony Paid under Alimony Payment Agreement
Article 162. Methods and Procedure of Alimony Payment under Alimony Payment Agreement

CHAPTER 23. PROCEDURE OF PAYMENTS AND RECOVERY OF ALIMONY IN A JUDICIAL PROCEDURE

Article 163. Recovery of Alimony by Court Decision
Article 164. Terms for Alimony Application
Article 165. Responsibility of Administrative Official of an Organization to Retain Alimony
Article 166. Alimony Deduction on the Basis of Alimony Payment Agreement
Article 167. Responsibility of a Person Obligated to Pay Alimony to Notify about Change of Employment or Place of Residence
Article 168. Execution upon Property of a Person Obligated to Pay Alimony
Article 169. Determination of Alimony Debt Amount
Article 170. Release from Alimony Debt
Article 171. Untimely Alimony Payment
Article 172. Inadmissibility of Deduction and Reverse Recovery of Alimony
Article 173. Alimony Indexation
Article 174. Alimony Payment in Case of Departure of a Person Obligated to Pay Alimony out of the Republic of Kazakhstan for Permanent Residence
Article 175. Change of the Alimony Amount Earlier Established by the Court and Release from Alimony Payment
Article 176. Termination of Alimentary Obligations

SPECIAL PART

SECTION 6. ACTS OF CIVIL STATUS
CHAPTER 24. GENERAL PROVISIONS

Article 177. Acts of Civil Status Subject to State Registration
Article 178. Issuance of Primary and Repeated Certificates of Civil State Registration
Article 179. Authorities Executing Civil State Registration
Article 180. Civil State Registration Rules and Procedure
Article 181. Register Books. Procedure and Terms of their Keeping
Article 182. State Duty
Article 183. Procedure of Changing, Amending and Correcting Civil Register Records
Article 184. Restorations of Civil Register Records
Article 185. Cancellation of Civil Register Records
Article 186. Responsibility to Adhere to the State Registration Procedure of Civil Register Record

CHAPTER 25. STATE REGISTRATION OF CHILD BIRTH

Article 187. Basis for Registration of Child Birth
Article 188. Place of State Registration of Child Birth
Article 189. Terms of Submission of Application of Child Birth
Article 190. Application of State Registration of Child Birth
Article 191. State Birth Registration of a Child Born after Father’s Death or Marriage (Matrimony) Dissolution or Declaring it to be Invalid
Article 192. Procedure of Introduction of Information about Parents into Child Birth Register Record
Article 193. Procedure of Ethnic Origin Registration of Child’s Parents
Article 194. Procedure of Giving Surname, Name, Patronymic Name to a Child during State Birth Registration
Article 195. State Birth Registration of a Child Born Outside of the Republic of Kazakhstan
Article 196. State Birth Registration of a Found, Abandoned (Denied) Child
Article 197. State Birth Registration of a Child Born Dead or Died during the First Week of Life
Article 198. State Birth Registration of a Child Aged one or more years
Article 199. State Birth registration of Child of Nonresidents
Article 200. Ceremonial Child Birth State Registration
Article 201. Information Entered into Child Birth Register Book
Article 202. Issuance of Child Birth State Registration Certificate
Article 203. Certificate of Birth

CHAPTER 26. STATE REGISTRATION OF PATERNITY
ESTABLISHMENT

Article 204. Reasons for State Registration of Paternity Establishment
Article 205. Place of State Registration of Paternity Establishment
Article 206. State Registration of Paternity Establishment on the Basis of Joint Application of the Child's Parents
Article 207. Designation of a Surname and Patronymic to a Child on the Basis of a Joint Application for Paternity Establishment
Article 208. State Registration of Paternity Establishment upon the Application of the Person Admitting Paternity
Article 209. Designation of a Surname and Patronymic to a Child under State Registration of Paternity Establishment on the Basis of an Application of the Person Admitting Paternity
Article 210. State Registration of Paternity Establishment on the Basis of the Court Decision on Paternity Establishment, Paternity Acknowledgement Fact and Paternity Fact
Article 211. Designation of a Surname and a Patronymic to a Child under State Registration of Paternity Establishment upon Court Decision
Article 212. Simultaneous State Registration of the Child's Birth and Paternity Establishment
Article 213. The Order of State Registration of Paternity Establishment in Respect of the Child of Full Age
Article 214. Application for Paternity Establishment
Article 215. Amendatory Procedure under State Registration of Paternity Establishment
Article 216. Acknowledgement of Paternity Established beyond the Borders of the Republic of Kazakhstan.
Article 217. Information Recorded in the Register of Paternity Establishment
Article 218. Issue of a Certificate on State Registration of Paternity Establishment
Article 219. Certificate of Paternity Establishment

CHAPTER 27. STATE REGISTRATION OF MARRIAGE (MATRIMONY)

Article 220. Reasons for State Registration of Marriage (Matrimony)
Article 221. Place of State Registration of Marriage (Matrimony)
Article 222. Terms of Application for Marriage (Matrimony) and State Registration of Marriage (Matrimony)
Article 223. Reduction and Prolongation of a Term of State Registration of Marriage (Matrimony)
Article 224. Application for Marriage (Matrimony)
Article 225. The Order of Surname Registration under State Registration of Marriage (Matrimony)
Article 226. The Order of State Registration of Marriage (Matrimony)
Article 227. State Registration of Marriage (Matrimony) in Solemn Surroundings
Article 228. State Registration of Marriage (Matrimony) of the Citizens of the Republic of Kazakhstan with Foreign Citizens and Stateless Persons
Article 229. State Registration of Marriage (Matrimony) in Foreign Agencies of the Republic of Kazakhstan, Diplomatic Mission Offices and Foreign Agencies of Foreign States
Article 230. Recognition of Marriage (Matrimony) Contracted beyond the Republic of Kazakhstan as Existing
Article 231. Invalidity of Marriage (Matrimony) Contracted in the Republic of Kazakhstan or Abroad
Article 232. The Order of Issuing Certificates about Marriage ability
Article 233. State Registration of Marriage (Matrimony) with the Detained or Convicted Person or a Person Serving a Sentence in Criminal-Executive Institutions
Article 234. Marriage (Matrimony) Statement Content
Article 235. Suspension of Marriage (Matrimony) Statement
Article 236. Presentation of the Marriage (Matrimony) Certificate to the Spouses
Article 237. Marriage (Matrimony) Certificate

CHAPTER 28. STATE REGISTRATION OF DISSOLUTION OF A MARRIAGE (MATRIMONY)

Article 238. Reasons for State Registration of Dissolution of a Marriage (Matrimony)
Article 239. Place of State Registration of Marriage (Matrimony) Dissolution
Article 240. Period of State Registration of Marriage (Matrimony) Dissolution on the reason of the Joint Petition of the Parties to a Marriage (Matrimony)
Article 241. Petition for State Registration of Dissolution of a Marriage (Matrimony)
Article 242. State Registration of Dissolution of a Marriage (Matrimony) with a Party to a Marriage Recognized as Missing, Disabled or Sentenced to a Long Term of Deprivation
Article 243. Preservation or Changing of the Married Name after Dissolution of a Marriage (Matrimony)
Article 244. State Registration of Dissolution of Marriage (Matrimony) with a Foreign National or a Stateless Person
Article 245. Marriage (Matrimony) Dissolution Statement Content
Article 246. Issue of Certificate of Annulment
Article 247. Certificate of Annulment
CHAPTER 29. STATE REGISTRATION OF ADOPTION OF A CHILD

Article 248. Reason for State Registration of Adoption of a Child
Article 249. Place of state registration of adoption of a Child
Article 250. Petition for State Registration of Adoption of a Child
Article 251. State Registration of Inter-Country Adoption
Article 252. Content of Adoption Statement
Article 253. Issue of Adoption Certificate and New Birth Certificate
Article 254. Adoption Certificate
Article 255. Annulment of Adoption Statement
Article 256. Protection of Adoption Secrecy by Bureaus of Civil Registration of the Territorial Justice Agency

CHAPTER 30. STATE REGISTRATION OF CHANGE OF NAME, PATRONYMIC AND SURNAME

Article 257. Reasons for State Registration of Change of Surname, Name and Patronymic
Article 258. Place of State Registration of Change of Surname, Name, and Patronymic
Article 259. Application for Change of Surname, Name or Patronymic
Article 260. Period for Consideration of Application for State Registration of Change of Surname, Name or Patronymic
Article 261. List of Documents to be Attached to an Application for Change of Surname, Name or Patronymic
Article 262. Refusal of State Registration of Change of Surname, Name or Patronymic
Article 263. Content of Certificate of Change of Surname, Name or Patronymic
Article 264. Information Subject to Change due to Change of Surname, Name or Patronymic
Article 265. Issue of Certificate of Change of Surname, Name or Patronymic
Article 266. Certificate of Change of Surname, Name or Patronymic
Article 267. List of Governmental Agencies to be Informed of Change of Surname, Name or Patronymic of an Individual

CHAPTER 31. STATE REGISTRATION OF DEATH

Article 268. Reasons for State Registration of Death
Article 269. Place of State Registration of Death
Article 270. Application for Registration of Death
Article 271. State Registration of Death, in Case the Body is Unidentified or Unclaimed
Article 272. Content of Death Statement
Article 273. Issue of Death Certificate
Article 274. Death Certificate

SECTION 7. APPLICATION OF NORMS OF MARRIAGE AND FAMILY LEGISLATION IN KAZAKHSTAN

CHAPTER 32. APPLICATION OF NORMS OF MARRIAGE AND FAMILY LEGISLATION TO FOREIGN NATIONALS AND STATELESS PERSONS

Article 275. Personal Non-Property and Property Rights and Obligations of the Spouses
Article 276. Establishment and Contest of Paternity (Maternity)
Article 277. Rights and Obligations of Parent(s) and Children
Article 278. Alimentary Obligations of Adult Children and Other Family Members
Article 279. State Registration of Civil Statutes Documents of Non-Resident Nationals of Republic of Kazakhstan
Article 280. Acknowledgement of Documents Issued in Foreign States Confirming Performance of Civil Statutes Documents

CHAPTER 33. CONCLUDING AND TRANSITORY PROVISIONS

Article 281. Responsibility for Violation of Marriage and Family Laws of the Republic of Kazakhstan
Article 282. Procedure of Application of the Present Code
Article 283. Procedure of Introduction of the Present Code into Effect

The present Code defines goals, objectives, principles and legal basis for regulating marriage and family (marital and family) relations, provides protection of rights and interests of the family, defining its development as a priority direction of the state social policy of the Republic of Kazakhstan.

GENERAL PART

SECTION 1. GENERAL PROVISIONS

CHAPTER 1. MARRIAGE AND FAMILY LAWS OF THE REPUBLIC OF KAZAKHSTAN

Article 1. Basic concepts used in the present Code:
1. The following basic concepts are used in the present Code:

1) acts of civil status – legally registered circumstances which identify the person and with whom the origin, existence and termination of his rights and obligations are connected;

2) civil registration department (further – civil registry office) – the territorial justice authority which carries out the state civil registration;

3) accreditation – an official recognition of the adoption agency by the authorized state agency in the field of children rights protection to carry out its activities;

4) alimony – financial or material allowance which must be granted by one person to another one who has the right to receive it;

5) child/children without parental care – child/children who lost the custody of single or both parents due to restriction or deprivation of parental rights, recognition of the missing, proclaiming deceased, legal incapacity or restricted legal incapacity, completing sentence in prison, avoidance of the child’s upbringing or protection of his rights and interests including the refusal to take the child from the educational or medical facilities, as well as in other cases, lack of parental care and those who need to establish the necessary protection of their rights and interests prescribed by laws;

6) abandoned child/children - a child whose parents (parent) refused from his further upbringing, education, material support through the registration of relevant legal documents;

7) paternity testing –testing by the civil registry office of the territorial justice authorities or in the legal process paternity in respect of a person not married (matrimony) to the mother of the child;

8) child (children) – a person under eighteen years (adult);

9) adoption - the legal form of placing the child/children under upbringing in the family according the court decision which resulted in having personal non- property and property rights and obligations equiated with the rights and obligations of the relatives by birth;

10) the adoption agency - non-profit, foreign organizations involved in adoption children in the territory of its own state and accredited to carry out such activities in the territory of the Republic of Kazakhstan in the manner prescribed by the present Code;

11) childhood - the legal status of persons under the age of an adult;

12) the legal representatives of the child - the parents (parent), adoptive parents, guardian, trustee, foster parent, other replacement individuals and organizations envolved in the care, education, upbringing, protection of the rights and interests of the child in accordance with the laws of the Republic of Kazakhstan;

13) close relatives – parents (parent), children, adoptive parents, adopted children, full and half brothers and sisters, grandfather, grandmother, grandchildren;
14) sham marriage (matrimony) – the marriage (matrimony) concluded in the manner prescribed by law, without the intention of the spouses or one of them to start a family;

15) identification document – a standard form issued by the relevant authorized agency verifying the identity of a citizen when entering into different legal relations.

The documents verifying the identity are – identification document of a citizen of the Republic of Kazakhstan, a national passport, stateless certificate, residence permit in the Republic of Kazakhstan;

16) property – the ratio of one spouse to the close relatives of the other spouse;

17) an orphan child – a child/children, whose both or single parent has died;

18) the authorized agency in the field of children rights protection – the central executive authority determined by the government of the Republic of Kazakhstan;

19) trusteeship – legal forms of protection of the rights and interests of the child at the age of fourteen to eighteen years, as well as adults, restricted by the court legally incapable as a result of the abuse of alcohol or drugs;

20) child/children in the difficult living situation – a child whose livelihoods disrupted as a result of existing circumstances and who can not overcome these circumstances alone or with the help of the family;

21) guardianship – legal form of protection of the rights and interests of children under the age of fourteen years, and persons found legally incapable;

22) guardian or trustee – a person appointed in the manner prescribed by law for the functions of guardianship or trusteeship;

23) assisted reproductive techniques and technologies – a set of medical events on the diagnosis, treatment and rehabilitation, aimed at correction of the reproductive activities of citizens;

24) material circumstance – the presence or absence of salary, pensions, other incomes, their size; availability of property; receipt or the absence of the receipt material aid from other family members;

25) the treaty regime of property – a property regime of spouses, prescribed by the marriage contract;

26) marriage (matrimony) – an equal union between a man and a woman, concluded with the free and full consent of the parties in the manner prescribed by law start a family causing property and personal non-property rights and obligations between spouses;

27) marriage (marital) age – the age at which a person has the right to marry;

28) not married mother – a woman who gave birth to the child (children), but not married and registered in the Civil Registry Office of the territorial justice authority;
family – the set of persons connected by the property and personal non-property rights and obligations arising from marriage (matrimony), relationship, quality, adoption or other forms of adoption of children to upbringing and to contribute to strengthening and development of family relationships;

30) marital status – the state or not the state in marriage (matrimony), divorce, widowhood, the presence or absence of children or other family members;

31) foster care – a form of upbringing in which orphan children, children deprived from parental care are sent to foster homes under a contract concluded between the authority performing the guardianship (trusteeship) functions and the person who expressed a desire to place the child/children under upbringing;

32) reproductive health – human health reflecting its ability to reproduce a full-fledged descendants;

33) surrogate mother – a woman, nurtured the child after the application of assisted reproductive techniques and technologies and having the child/children to customers under the contract of surrogate motherhood;

34) surrogate motherhood – bearing and birth of the child (children), including cases of premature delivery according the contract between the surrogate mother and the spouses with the payment of repayment;

35) surrogate motherhood contract – notarized certificate of a written agreement between persons who are married and who wish to have a child and a woman who agrees to bear and birth of the child (children) through the use of assisted reproductive techniques and technologies;

36) relatives – persons who are in family relationship, having joint ancestors to the greatparents

2. The concept of “adoption”, “adoptive parents”, “adopted children”, “child (children)” and “spouses” are equal in Russian, if the present Code doesn't provide otherwise.
6) the priority the protection of the rights and interests of juveniles, elderly and disabled family members;

7) ensure the smooth implementation of the family members of their rights, the possibilities of judicial protection of these rights;

8) maintaining a healthy lifestyle for all family members.

3. Only the marriage registered by the state authorities is recognized.

The marriage (matrimony) concluded for religious rites and ceremonies is not equal to the marriage (matrimony) registered in the bureau of civil registration of the territorial justice agency and do not create a corresponding legal consequences.

Marriage (matrimony) is not recognized when factual cohabitation of both men and women or persons of one sex.

4. Any form of restriction of civil rights in marriage and family relations on the basis of origin, social, property status, racial, ethnic, linguistic or religious affiliation or any other circumstances is forbidden.

Citizen’s rights in marriage and family (marital and family) relations can only be restricted by law and only to that extent that is necessary to protect the constitutional order, public safety, human rights and freedoms, health and morals.

Article 3. Relations regulated by the marriage and family laws of the Republic of Kazakhstan

Marriage and family laws of the Republic of Kazakhstan:

1) stipulates rights and obligations, property and personal non-property relations between the family members: spouses, parents and children and in cases and within the marriage and family laws of the Republic of Kazakhstan;

2) determines the conditions and procedure for marriage (matrimony), marriage (matrimony) termination and nullification;

3) determines the form and procedure of the placing in a family of orphans children, children without parental care;

4) regulates the procedure of state registration of civil status;

5) defines the functions of public authorities carrying out state registration of civil status.

Article 4. Marriage and family laws of Republic of Kazakhstan

1. Marriage and family laws of Republic of Kazakhstan is based on the Constitution of the Republic of Kazakhstan, consists of the present Code and other standard and legislative acts of the Republic of Kazakhstan.
2. If an international treaty ratified by the Republic of Kazakhstan stipulates other rules than in the matrimonial laws of the Republic of Kazakhstan, the rules of international treaties are implemented.

Article 5. Execution of civil law of the Republic of Kazakhstan to marriage and family (marital and family) relations

1. Property and personal non-property relations between the family members mentioned in the Article 3 of the present Code, not regulated by the marriage legislation of the Republic of Kazakhstan are subject to civil laws of the Republic of Kazakhstan as it does not contradict the essence of marriage and family (marital and family) relations.

2. In cases when the relations prescribed by the Article 3 of the present Code are not directly regulated by the laws of the Republic of Kazakhstan or the agreement of the parties and rules practiced to them are missing, the standards of marriage and family and/or civil law Republic of Kazakhstan regulating similar relations (analogy of law) are implemented to the relations because they do not contradict the essence of them. If it is not possible to perform in given cases of the analogy of law, the rights and obligations of the subjects of marriage and family (marital and family) relations are defined from general principles and meaning of marriage and family or civil law Republic of Kazakhstan and the requirements of conscientiousness, rationality and justice (analogy of law), also with adherence to the principles of the law in time, space and set of people.

CHAPTER 2. APPLICATION AND PROTECTION OF THE MARRIAGE AND FAMILY (MARITAL AND FAMILY) RIGHTS

Article 6. Application of rights and obligations of the marriage and family (marital and family) relationships

Citizens at its own discretion dispose of their rights ensuing from marriage and family (marital and family) relations including the right to protect these rights unless otherwise stipulated by the legislative acts of the Republic of Kazakhstan.

Application of marriage and family (marital and family) rights and application of the obligations must not violate the rights, freedoms and legal interests of the family members and other legal entities.

Article 7. Protection of marriage and family (marital and family) rights
The protection of marriage and family (marital and family) rights is carried out by the court according to the rules of civil procedure. And in cases stipulated by the present Code, the protection of marriage and family (marital and family) rights is carried out by the state authorities within their competence in the way prescribed by the present Code.

The application for the protection of the violated right to authority or regulatory body does not interfere with the reference to the court with the claim of right protection.

Article 8. The practice of legal limitation in marriage and family (marital and family) relations

1. The legal limitation is not used in requests resulted from marriage and family (marital and family) relations, excluding the cases when the period for the protection of the violated right is determined by the present Code.

2. When using norms determining legal limitation, when adjudicate on matrimonial relationships ensuing from marriage and family (marital and family) relationships the Court follow the norms of the Civil Code of the Republic of Kazakhstan.

SECTION 2. MARRIAGE (MATRIMONY)

CHAPTER 3. CONDITIONS AND PROCEDURE OF MARRIAGE (MATRIMONY)

Article 9. Conditions of Marriage (Matrimony)

1. To get married it is required free and complete consent of man and woman getting married as well as marriage age.

2. Marriage (Matrimony) cannot be effected if there are conditions stipulated in the Article 11 of this Code.

Article 10. Marriage (marital) Age

1. Marriage (marital) age for man and woman is eighteen years old.

2. Bureaus of civil registration of territorial justice agency in the place of marriage state registration lower the marriage (marital) age for a period of at most two years if there are justifiable reasons:
   1) pregnancy;
   2) birth of common child.
3. Petition on lowering the marriage (marital) age can be filed by the persons willing to get married and their parents or guardians, specifying the reasons to lower the set marriage (marital) age.

4. Lowering the marriage (marital) age is allowed upon the consent of the persons getting married only.

5. Marriage (matrimony) between unmarriagable persons or marriageable person and unmarriagable person is allowed only upon the written consent of the parents (parent) or guardians (guardian) of unmarriagable persons.

Article 11. Persons not Allowed to Get Married

Marriage (matrimony) is not allowed between:
1) persons of the same sex;
2) persons, the one of which has already have another registered marriage;
3) close relatives;
4) adoptive parents and adopted children; children of the adoptive parents and adopted children;
5) persons, the one of which is declared disabled due to mental disease or mental handicap by the legal court decision.

Article 12. Health Survey of the Persons Getting Married

1. Consulting and survey on health as well as medicogenetic issues and reproductive health of the persons getting married is performed by the health facilities and upon their mutual consent only.

2. Results of the surveying the person getting married are medical secrecy and can be reported to the future husband (wife), upon the consent of the surveyed person only.

Exceptions are the cases when the person getting married has disease dangerous for another person getting married.

Article 13. The procedure of marriage (matrimony) conclusion

1. The marriage (matrimony) is concluded in the Bureaus of Civil Registration of the territorial justice agencies by the personal presence of the persons who intend to conclude a marriage.

In exceptional circumstances (illness, being under the custody or in prison), when one of the persons wishing to marry can not appear in the Bureau of civil registry of the territorial justice agency, marriage (matrimony) may be made by location of the person with the binding agreement with the administration of the proper institution.
2. Marriage (matrimony) is carried out after one month from the date of presenting the application to intend to marry to the Bureau of civil registry of the territorial justice agency.

The Bureau of civil registry of the territorial justice agency in place of state registration of marriage (matrimony) in case of legitimate excuse, confirmed by documents, decreases or increases the time limit.

In case of particular circumstances (pregnancy, childbirth, immediate peril to the life of one of the parties and other particular circumstances) the state registration of the marriage (matrimony) by the intention of the intenders to contract marriage is registered on the day of filling the application.

3. State registration of marriage (matrimony) is produced in the manner prescribed by this Code.

4. The denial of the bureau of civil registry of the territorial justice agency to state registration of marriage may be appealed by the persons who intend to contract marriage or by one of them as well as legal representatives.

CHAPTER 4. MARRIAGE (MATRIMONY) TERMINATION

Article 14. Marriage (matrimony) Termination

Marriage (matrimony) termination is the termination of legal relations between spouses due to the circumstances independent from them (death, declaration of death or recognition of missing) or due to the actions of individual intention of two as well as one spouse by termination of marriage (matrimony) in order determined by the present Code.

The marriage (matrimony) termination between spouses does not suspend and does not cease the legal relations of parents and children born or adopted in this marriage (matrimony).

Article 15. Marriage (Matrimony) Termination due to the Death of one of the Spouses, Declaration of Death or Recognition of Missing

1. Marriage (matrimony) is terminated due to the death or recognition by court decision of the death of one of the spouses or missing

2. In case of appearance of husband/wife declared dead by the court or recognized missing by the court and reversal of judgments the marriage (matrimony) can be resumed by the bureau of civil registration of the territorial justice agency on joint application of spouses.

3. Marriage (matrimony) cannot be resumed, if another husband/wife remarried, except for the cases when at the moment of conclusion of marriage the Parties (or one of the Parties) knew that the husband/wife recognized missing or declared dead is alive.
Article 16. Marriage (Matrimony) Dissolution

1. Marriage (matrimony) can be terminated by its dissolution upon the application of one or both spouses as well as upon the application of the guardian of husband/wife determined by the court as the disabled.
2. Marriage (matrimony) dissolution is impossible without the consent of the wife during her pregnancy and during the first life year of the child.

Article 17. Marriage (Matrimony) Dissolution in Bureaus of Civil Registration of Territorial Justice Agency

1. Marriage (matrimony) dissolution in bureaus of civil registration of the territorial justice agency is implemented by mutual consent for marriage (matrimony) dissolution of spouses who do not have common minor children as well as in the absence of property or other claims to each other.
2. Irrespective of the fact if spouses have joint minor children, the marriage (matrimony) is dissolved in the bureaus of civil registration of the territorial justice agency upon the application of one of the spouses if another husband/wife is:
   1) determined by the court as missing;
   2) determined by the court as the disabled;
   3) determined by the court as restrictedly capable;
   4) convicted for the crime for 3 years imprisonment.
3. State registration of the marriage (matrimony) dissolution is implemented by the bureau of civil registration of the territorial justice agency in order determined by the present Code.

Article 18. Consideration of Disputes between the Spouses at Marriage (Matrimony) Dissolution

Disputes of joint property division, payments for care of the disabled husband/wife as well as minor children arising at marriage (matrimony) dissolution are considered in a judicial proceeding.

Article 19. Marriage (Matrimony) Dissolution in a Judicial Proceeding

1. Marriage (matrimony) dissolution is implemented in a judicial proceeding if the court determined that the further cohabitation and saving the family are impossible.
2. Marriage (matrimony) dissolution in a judicial proceeding is implemented in the following cases:
1) if the spouses have common minor children, exclusive of the cases determined in Article 17, item 2 of the present Code;
2) if one of the spouses does not give the consent for marriage (matrimony) dissolution;
3) if one of the spouses having no objections deviates from marriage (matrimony) dissolution by his actions or inactivity;
4) if the spouses have property or other claims to each other.
3. Marriage (matrimony) dissolution in a judicial proceeding is implemented upon the expiry of one month from the date of submission of an application by the spouses on marriage (matrimony) dissolution.
4. In exceptional circumstances the court can set a term which is less than the term determined in this Article, item 3.

Article 20. Marriage (Matrimony) Dissolution in a Judicial Proceeding when One of the Spouses does not Give the Consent for Marriage (Matrimony) Dissolution

When one of the spouses does not give the consent for marriage (matrimony) dissolution the court has a right to take measures for reconciliation of the spouses and set aside the trial giving the spouses a time limit of 6 months for reconciliation.

In case of setting aside the trial with the fixation a time limit for reconciliation to the spouses, the court on claim of one of the spouses decides the issues, prescribed in Article 22, sub-items 2) and 4), item 2 of the present Code.

Marriage (matrimony) dissolution is implemented if the reconciliation measures of the spouses are ineffective and the spouses (one of them) insist on marriage (matrimony) dissolution.

Article 21. Marriage (Matrimony) Dissolution in a Judicial Proceeding for Other Reasons

1. If the spouses having common children give the mutual consent for marriage (matrimony) dissolution and if they do not have property or other claims to each other the court can dissolve the marriage without explanation of reasons for marriage (matrimony) dissolution.
2. If one of the spouses having common minor children and having no property claims to each other files a petition on marriage (matrimony) dissolution and the second one deviates from the marriage (matrimony) dissolution by his actions or inactivity, regardless the absence of objections the court can dissolve a marriage without clarification of reasons for marriage (matrimony) dissolution.
Article 22. Issues Proceeded by the Court at Rendering the Decision on Marriage (Matrimony) Dissolution

1. At marriage (matrimony) dissolution in a judicial proceeding the spouses can submit the agreement to the court on child’s living with one of the spouses, the manner of means payments for taking care of children and/or the disabled, indigent husband (wife), on the amount of these payments or the division of spouses’ joint property. The surname selection after marriage (matrimony) dissolution is made at marriage (matrimony) state registration.

2. If there is no agreement between the spouses on the issues determined in item 1 of the present Article as well as if it is determined that this agreement violates the interests of children or one of the spouses the court shall:
   1) decide with whom of the parents children will live after marriage (matrimony) dissolution;
   2) decide who of the parents and what amount of maintenance will pay for child/children maintenance;
   3) perform the division of property upon the requirement of the spouses which is their joint property considering the interests of the minor children and/or the interests of spouses;
   4) determine the amount of this property upon the requirement of the husband/wife entitled to get the property from the other husband/wife.

3. If the property division affects interests of the third parties the court is entitled to require the property division in special proceeding.

Article 23. The Truncation Point of Marriage (Matrimony) Termination under its Dissolution

1. Marriage (matrimony) dissolved in the bureaus of civil registration is terminated on the day of state registration of marriage (matrimony) dissolution in civil register, and if the marriage (matrimony) is dissolved in the court it is terminated on the day of entry into force the decision on marriage (matrimony) dissolution.

The court within three days from the day of the effectiveness of the court decision on marriage (matrimony) dissolution shall submit the court decision copy to the bureau of civil registration of the territorial justice agency at the place of decision-making as well as at the place of marriage (matrimony) state registration.

2. The effective court decision on marriage (matrimony) dissolution is subject to state registration in the bureaus of civil registration of the territorial justice agency at the place of court decision or at the place of residence of one of the spouses.
The spouses have no right to conclude/register a new marriage (matrimony) before receiving the certificate on former marriage (matrimony) dissolution.

Article 24. The Effect of Marriage (Matrimony) Termination

With the marriage (matrimony) termination property and personal non-property rights and obligations of the spouses subsequent from their marriage are terminated, exclusive of the cases determined by the present Code.

CHAPTER 5. INVALIDITY OF MARRIAGE (MATRIMONY)

Article 25. Marriage (Matrimony) Invalidation

1. Marriage (matrimony) is invalidated by the court under the violation of conditions determined by the Articles 9-11 of the present Code as well as in the following cases:
   1) at the conclusion of fictitious marriage (matrimony);
   2) at the conclusion of marriage (matrimony) under constraint;
   3) if one of the persons getting married concealed the existence of diseases threatening the member families, personal and public security.

2. The court within three days from the day of the decision effectiveness on the marriage (matrimony) invalidation shall send the statement to the bureau of civil registration of the territorial justice agency in the place of marriage (matrimony) state registration.

3. Marriage (matrimony) is invalidated upon its conclusion.

Article 26. Persons Entitled to Require Marriage (Matrimony) Invalidation

1. The following persons have a right to submit an application on the marriage (matrimony) invalidation:
   1) minor husband, his legal representatives or public prosecutor, if the marriage (matrimony) is concluded with the unmarriageable person;
   2) husband/wife the rights of whom are violated by the conclusion of marriage as well as the public prosecutor if the marriage (matrimony) is concluded without voluntary consent of one of the spouses for its conclusion due to the constraint, fraud, delusion or impossibility to comprehend his activities and direct them by virtue of the status at the moment of marriage (matrimony) state registration;
3) wife/husband being unaware of the circumstances hindering the marriage (matrimony) conclusion, the guardian of husband/wife recognized as the disabled, husband/wife by the previous undissolved marriage (matrimony);
4) state prosecutor as well as the husband/wife being unaware of fictitious marriage (matrimony) in case of fictitious marriage (matrimony) conclusion;
5) husband/wife the rights of which are violated under the circumstances determined in Article 1, sub-item 3), item 1 of the present Code.

2. The authority performing the guardianship functions is involved to consideration of case on the marriage (matrimony) invalidation concluded with unmarriageable person as well as the disabled person.

Article 27. The Circumstances Removing Marriage (Matrimony) Invalidation

1. If by the time of the consideration of case on the marriage (matrimony) invalidation the circumstances hindering the marriage (matrimony) conclusion were ceased the court is entitled to accept the marriage as valid thereafter.
2. The court can deny a claim on the marriage (matrimony) invalidation concluded with unmarriageable person if it is required by the interests of minor husband/wife as well as without his consent on the marriage (matrimony) invalidation.
3. The court cannot declare a marriage (matrimony) fictitious, if the persons who registered this marriage (matrimony) actually made a family before the consideration of the case by the court.
4. Marriage (matrimony) cannot be annulled after its dissolution, exclusive of the cases of relation degree between the spouses prohibited by the Code, or when one of the spouses is in undissolved marriage (matrimony) at the moment of marriage (matrimony) state registration.

Article 28. The Effect of the Marriage (Matrimony) Invalidation

1. The marriage (matrimony) invalidated by the court does not cause the rights and obligations of the spouses determined by the present Code, exclusive of the cases determined by the items 4 and 5 of the present Article.
2. The legal status of property obtained by the persons the marriage of which is invalidated is regulated by the provisions of the RoK Civil Code. In this case marriage (matrimony) contract concluded by the spouses becomes ineffective.
3. The annulment of marriage (matrimony) does not infringe the rights of child/children born in this marriage (matrimony) or within 280 (two hundred and eighty) days upon the marriage (matrimony) invalidation.
4. When deciding on the marriage (matrimony) invalidation the court is entitled to give husband/wife who at the time of marriage (matrimony) was
unaware of the circumstances providing the basis for the marriage (matrimony) invalidity (conscientious husband/wife) the right for getting the property from another husband/wife in accordance with the Articles 148-149 of the present Code, and as for division of property mutually obtained before the invalidity of marriage (matrimony) the court is entitled to apply provisions determined by the Articles 33,37,38 of the present Code as well as completely or partially accept the marriage contract as valid.

Conscientious husband/wife is entitled to seek moral and property losses caused by another husband/wife in accordance with the RoK Civil Code.

5. Conscientious husband/wife at the time of the marriage (matrimony) invalidity is entitled to preserve the surname chosen by him at marriage (matrimony) state registration.

CHAPTER 6. PERSONAL RIGHTS AND OBLIGATIONS OF THE SPOUSES

Article 29. Creation of Spouses’ Rights and Obligations

The rights and obligations of spouses arise upon marriage (matrimony) state registration.

Article 30. The Equality of Spouses in Family

1. Spouses enjoy equal rights and bear equal obligations.

2. Each of the spouses is free in choice of activity, profession and religion.

3. The issues of maternity, paternity, upbringing, education of child/children, place of residence and other issues of the family life are jointly solved by the spouses.

4. The spouses shall build family relations on the basis of mutual respect and mutual assistance, contribute to welfare and strengthening of the family, and take care of health, development of his/her child and his/her welfare.

Article 31. The Right of Choice of Surname by the Spouses

1. At marriage (matrimony) conclusion the spouses voluntarily choose the surname of one of them as the common family name, or each of the spouses preserves his/her premarital surname, or one/both combines his/her surname to the surname of a husband/wife. The combining of surnames is impermissible if the premarital surname of one of the spouses is compound already.

A citizen shall change identification documents within one month in case of surname change at marriage (matrimony) conclusion.
2. The change of surname by one of the spouses does not involve the compulsory change of surname of another husband/wife.

3. In case of marriage (matrimony) dissolution the spouses have the right to preserve the surname chosen at marriage (matrimony) conclusion or restore their premarital surnames.

CHAPTER 7. PROPERTY RIGHTS AND OBLIGATIONS OF THE SPOUSES

§ 1. The Legal Order of the Spouses’ Property

Article 32. The Concept of the Legal Order of the Spouses’ Property

1. The legal order of the spouses’ property is the order of their joint property unless otherwise provided by the marriage contract.

2. The rights of spouses to possess, use and administer the property which is the joint estate of the peasant and farming holding members are determined by the RoK Civil Code.

Article 33. Joint Property of Spouses

1. The property acquired by the spouses within their marriage is their joint property.

2. To the property acquired by the spouses within their marriage one can refer income amount of each spouse from labor activity, business and the results of intellectual activity, income amount from joint property of the spouses and separate property of each of the spouses, received pension, benefits, pension accruals as well as other money payments lacking the special designated purpose (amounts of material assistance, amounts paid for compensation of damages in connection with the disablement, mutilation or other injury to health, etc.) The joint property is personal property and real estate acquired by means of total income amount of the spouses, securities, shares, investments, shares in the capital subscribed to credit institutions or other organizations, and any other property acquired within the marriage (matrimony) in spite of the fact for which name of the family it was acquired, or who of the spouses contributed money.

3. The right for the joint property of the spouses belongs to husband/wife who within the marriage (matrimony) managed a household, took care of children or did not have individual income for other legitimate reasons.

Article 34. Possession, Use and Disposal of Spouses’ Joint Property
1. Possession, use and disposal of spouses’ joint property is implemented by the mutual consent of the spouses.

2. If one of the spouses makes an agreement on disposal of joint property the consent of another husband/wife is supposed to be. The agreement on the disposal of joint property made by one of the spouses can be annulled by the court for the lack of the consent by the husband/wife, only by his/her requirement and only in cases when it is proved that another party knew about the agreement or previously should have known about the disagreement of another husband/wife on this agreement settlement.

3. It is necessary to get the notarially certified consent of another spouse for the settlement of an agreement requiring notarization and/or registration in accordance with the law.

Husband/wife, notarially certified consent which was not received by the time of agreement settlement has the right to annul the agreement in a judicial proceeding within three years upon the day when he/she knew or should have known about the settlement of an agreement.

Article 35. Property of Each of the Spouses

1. The property of each of the spouses is:
   1) ownership belonged to each of the spouses before the marriage (matrimony);
   2) ownership acquired by the spouses within the marriage (matrimony) for donation, in the order of inheritance or by other voluntary agreements;
   3) private things (clothes, shoes and other), exclusive of jewelry and other luxury goods though acquired within the marriage (matrimony) on account of spouses’ joint funds.

2. The ownership acquired by each of the spouses within the period of separate residence in connection with actual marriage (matrimony) termination can be accepted by the court as property of each of them.

Article 36. Recognition the Ownership of Each of the Spouses’ as Their Joint Property

The ownership of each of the spouse can be recognized as their joint property if it is known that within marriage (matrimony) one had realized the investments on the account of the joint property or property of one of the spouses or labour of one of the spouses which significantly increased the amount of this property (overall repair, reconstruction, reequipment, etc.)

Article 37. Division of Spouses’ Joint Property
1. Division of spouses’ joint property can be performed within the marriage (matrimony) as well as after its dissolution by the request of any one of the spouses and in case of the creditor requirement on division of spouses’ joint property for application of recovery for the share of one of the spouses in spouses’ joint property.

2. The spouses’ joint property can be shared between the spouses by their consent. The agreement on the division of spouses’ joint property shall be notarially certified.

3. In case of dispute the division of the spouses’ joint property as well as determination of spouses’ shares in this property is performed in a judicial proceeding.

At the division of the spouses’ joint property the court on the request of the spouses considering the interests of the minor child/children determines which property is subject to disposal of each of the spouses. If one of the spouses gets the property the cost of which exceeds the due share, another husband/wife is adjudged money or other compensation.

4. The things acquired exclusively for satisfaction of the minor child/children needs (clothes, shoes, school and sports supplies, musical instruments, children library, etc.) are not subject to the division and transferred to the spouse with whom children live.

Investments contributed by the spouses on the account of the spouses’ joint property in the name of their common minor children are considered to belong to these children, and they are not considered at the division of the spouses’ joint property.

5. When dividing the spouses’ joint property within the marriage (matrimony) the part of the joint property which was not divided as well as the property acquired within the marriage (matrimony) is their joint property hereinafter.

6. Three year period of limitation from the date of marriage (matrimony) dissolution is applied to the spouses’ requirements on division of spouses’ property the marriage (matrimony) of which is dissolved.

Article 38. Determination of Shares at Division of Spouses’ Joint Property

1. The shares of each of the spouses are equal at division of spouses’ joint property and determination of shares in this property if otherwise provided by the agreement between them.

2. The court is entitled to recede from the equality of spouses’ share in their joint property upon the interests of the minor child/children and/or upon the interests of one of the spouses if another husband/wife did not gain income for unreasonable excuses or spent spouses’ joint property to the detriment of the family interests without the consent of the second husband/wife.
3. Joint debts at division of spouses’ joint property are distributed between them proportionally to the adjudged shares.

§ 2. Treaty Regime of the Spouses’ Property

Article 39. Marriage Contract

1. Marriage contract is the agreement of persons getting married, or the agreement of spouses determining property rights and commitments of the spouses in the marriage (matrimony) and (or) in case of its dissolution.
2. Marriage contract can provide for property rights of children born or adopted in marriage.

Article 40. Conclusion of Marriage Contract

1. Marriage contract can be concluded from the date of submission of an application on marriage (matrimony) state registration to the bureau of civil registration of the territorial justice agency before the marriage (matrimony) state registration as well as at any time during marriage (matrimony).
2. Marriage contract concluded before the marriage (matrimony) state registration is effective from the date of the marriage (matrimony) state registration.

Article 41. The Content of the Marriage Contract

1. With the help of the marriage contract the spouses have the right to change the joint property regime established by the Laws of the Republic of Kazakhstan, set regime of joint, common or separate ownership for the spouses’ property, for its separate parts or for the property of each of the spouses.
2. Marriage contract can be concluded in relation to available as well as future spouses’ property.

In marriage contract the spouses are entitled to determine their rights and obligations by mutual consent, the participation in income of each other, the order of bearing expenses by each of them; determine the property which will be transferred to each of the spouses in case of marriage (matrimony) dissolution as well as include any other provisions to marriage contract concerning property or other relations of the spouses as well as property status of the child/children born or adopted in this marriage (matrimony).
2. The rights and obligations determined by the marriage contract can be limited by fixed periods or depend on happening or non-happening of certain conditions.

3. Marriage contract cannot limit legal capability or ability of the spouses, their right for applying to the court for their rights protection; regulate personal non-property relations between the spouses, the rights and obligations in relation to children; provide for provisions restricting the right of the disabled husband/wife needed in getting the support, and other conditions contradictory to fundamental principles of matrimonial legislation of the Republic of Kazakhstan.

Article 42. Modification and Dissolution of Marriage Contract

1. Marriage contract can be changed and dissolved at any time by the agreement of spouses. The agreement on modification or dissolution of the marriage contract is concluded in the same form as the marriage contract itself.

   One-side rejection of marriage contract execution is impermissible, exclusive of cases determined by the RoK Civil Code.

2. Under the requirement of one of the spouses the marriage contract can be changed or dissolved upon the court decision by reasons and order established by the RoK Civil Code on modification and dissolution of marriage contract.

3. The marriage contract is terminated from the date of marriage (matrimony) termination, exclusive of the obligations which are provided by the marriage contract over the period after marriage (matrimony) termination.

Article 43. Invalidation of Marriage Contract

1. Marriage contract can be completely or partially invalidated by the court by the reasons of legal transaction agreement determined by the RoK Civil Code.

2. The court can completely or partially invalidate the marriage contract under the requirements of one of the spouses if the contract conditions discriminate against husband/wife or infringe property rights of children born or adopted in this marriage (matrimony). The conditions of the marriage contract violating the requirements of the Article 41, item 3 of the present Code are invalidated.

§ 3. Responsibility of the Spouses upon Obligations

Article 44. Execution upon Spouses’ Property
1. According to obligations of one of the spouses the recovery is enforced only on the property of this husband/wife. If there is the deficiency of this property the creditor is entitled to require share apportionment of the husband/wife – debtor which would be due to husband/wife – debtor at division of the spouses’ joint property for recovery.

2. The recovery is enforced on spouses’ joint property upon general obligations of the spouses as well as upon the obligations of one of the spouses if the court determined that everything obtained upon the obligations was used for family needs. In case of the property deficiency the spouses are jointly responsible for the stated obligations by the property of each of them.

If the court decided that the spouses’ joint property was acquired or increased on account of the means criminally obtained by one of the spouses, the recovery is enforced on the spouses’ joint property or on its part.

3. The spouses’ responsibility for the harm caused by their minor children is determined by the RoK Civil Code. Execution upon spouses’ property at compensating the harm caused by their minor child/children is performed according to the item 2 of the present Article.

Article 45. Guarantee of Creditor Rights at Marriage Contract Conclusion, Modification and Dissolution

Creditor/creditors of husband/wife – debtor are entitled to require modification of conditions or dissolution of the marriage contract concluded by the spouses on account of the changed circumstances according to standards of the RoK Civil Code.

SECTION 3. FAMILY

CHAPTER 8. ESTABLISHMENT OF CHILD’S BIRTH

Article 46. Reasons for Creation of Rights and Obligations of Parents/Parent and Child

1. The child is registered immediately after his/her birth and entitled to a name and a citizenship, also, as far as possible, and to the right to know his/her parents and for their care.

2. The rights and obligations of the parents/parent and a child are based upon the birth of the child certified in due course of law.

3. The rights and obligations of adopted parents and adopted children are based on effective court decision on adoption.
Article 47. Establishment of Child’s Birth

1. Maternity is registered by the bureau of civil registration of the territorial justice agency upon the documents certifying the birth of the child by mother in medical institution.

   If the child was born out of medical institution his birth is registered by the bureau of civil registration of the territorial justice agency upon the medical documents certifying the birth, and in case of their absence the birth of the child is registered in a judicial proceeding.

2. The birth of a child from the married persons is certified by the registration of parents’ marriage.

   If the child is born by surrogate mother his birth is certified upon the agreement of surrogate maternity.

3. If the child was born within two hundred and eighty days from the date of marriage (matrimony) dissolution, its invalidation or from the date of the husband’s death, child’s mother the father of the child is the former husband of the mother unless otherwise was proved.

4. If the child’s mother states that the father of the child is not her husband or former husband the paternity concerning the child is established by the rules determined by the item 5 of the present Article or Article 48 of the present Code if there is the written application of mother and father or husband, former husband. If there is no such an application this issue is solved in a judicial proceeding.

5. The paternity of the person not married to the child’s mother is established by submission of joint application by father and child’s mother to bureau of civil registration of the territorial justice agency. In case of mother’s death, her incapability, and impossibility of mother’s location establishment or in case of deprivation of paternal rights it is established upon the application of child’s father with the consent of the authority performing the guardianship or trusteeship functions, and in the absence of this consent it is established by the court.

   If the paternity validity of a man who is not a husband of the mother is established the child’s mother has the right in a judicial proceeding to require relevant money means for the maintenance costs during predelivery and postnatal periods. The amount of money means and payments frequency is determined by the court proceeding from material and family status and other noteworthy interests of the parties, in multiple ratios to monthly specified rate effective for money means payment.

6. Discarding of data on child’s father from the birth statement where the child’s father is the husband or former husband of child’s mother is performed by the bureau of civil registration of the territorial justice agency upon the court’s decision on discarding of data on child’s father in the act note of the birth state registration.
7. Establishment of paternity in regard to a person who is at the age of eighteen years (legal age) is accepted only with his consent, and if he is the disabled it is accepted with the consent of his guardian or authority performing the guardianship or trusteeship functions.

Article 48. Establishment of Paternity in a Judicial Proceeding

If a child is born by the parents who are not married, and if there are no joint application of parents or child’s father the child’s birth from the concrete person/paternity is established in a judicial proceeding upon application of one of the parents/parent, guardian of a child or upon application of the person at expense of which the child is as well as upon application of a child on his full age. Moreover, the court considers evidences definitely confirming the birth of a child from the concrete person.

Article 49. Acknowledgement of Paternity by the Court Decision

In case of death of a person who acknowledged himself to be a father but was not in marriage with mother of the child, the fact of his acknowledgement of paternity can be established in a court procedure according to Code of Civil Procedure of the Republic of Kazakhstan.

Article 50. Record of Parents (Parent) of the Child in the Child Birth Register Book

Record of Parents (Parent) of the Child in the Child Birth Register Book is recorded in accordance with the present Code.

Article 51. Avoidance of Paternity (Maternity)

1. Record of parents in the birth register book can be disputed only in a judicial procedure at request of the person recorded as a mother or a father of the child, the person actually appearing as father or mother of the child, the child himself/herself upon attaining majority, guardian or trustee of the child, guardian of the parent declared to be disabled by court decision.

2. Request of the person recorded as the father of the child on avoidance of paternity can not be satisfied if at the moment of record entry the person knew that he was not actually the father of the child.

If in the child birth register book a spouse or a former spouse of the child’s mother is recorded by civil registry office of territorial judicial agency as father of the child, state registration of paternity establishment has to be refused in written until court makes a decision about exclusion of information about the child’s father from the birth register book.
3. The persons given their written consent in the order established by legislation of the Republic of Kazakhstan for application of ancillary reproductive methods and technologies may not refer to these circumstances when disputing paternity (maternity).

The persons given their consent for foetus implantation to another woman as well surrogate mother may not refer to these circumstances when disputing maternity and paternity.

Article 52. Rights and Responsibilities of the Child born by Persons not married Together

When establishing paternity in the order provided for by articles 47 – 49 of this Code, the child has the same rights and responsibilities with regard to parents and their relatives as the child born by persons married together.

Article 53. Privacy, Individual and Family Secret

1. Private life, individual and family secret are under legal protection.
2. Officials executing state registration of civil status acts as well as other persons otherwise familiar with private life are obliged to keep individual and family secret.
3. Disclosure of information about personal and family life of citizens to have up the responsibility established by laws of the Republic of Kazakhstan.

CHAPTER 9. SURROGATE MATERNITY AND THE APPLICATION OF ASSISTED REPRODUCTIVE TECHNIQUES AND TECHNOLOGIES

Article 54. Surrogate Maternity Agreement

1. Surrogate maternity agreement is concluded in written form with compliance with requirements of civil legislation of the Republic of Kazakhstan and is subject to obligatory notary certification.
2. Conclusion of surrogate maternity agreement certainly presupposes parental rights and duties of spouses (clients) for a child born as a result of application of assisted reproductive techniques and technologies.
3. Simultaneously with the surrogate maternity agreement the spouses (clients) conclude the contract with the medical organization applying auxiliary reproductive techniques and technologies that will provide appropriate services.

Article 55. Content of surrogate maternity agreement
Surrogate maternity agreement shall contain the following information:
1) information about spouses (clients) and surrogate mother;
2) procedure, conditions and frequency of payment of material costs for maintenance of surrogate mother;
3) rights, obligations and responsibilities of the parties;
4) amount and procedure of compensations provided for in Article 57, item 1;
5) other conditions, including force-majeure circumstances.

Article 56. Requirements to a Surrogate Mother

1. The women willing to become a surrogate mother shall be aged from twenty to thirty five years and have satisfactory physical, mental and reproductive health confirmed by the conclusion of medical organization and also have own healthy child.

2. If the surrogate mother is married at the conclusion of the surrogate maternity agreement it is necessary to present the written consent of the spouse, which must be certified by a notary.

3. Medical organization performing ancillary reproductive methods and technologies is obliged to make conclusion about their application with full and comprehensive information about the used biomaterials of the persons willing to have a child or of donor bank.

One copy of conclusion is attached to the notarized surrogate maternity agreement and is kept at place of dealing.

Article 57. Rights and Responsibilities of the Parties of Surrogate Maternity Agreement

1. When concluding the surrogate maternity agreement, the spouses (clients) are obliged:
   1) to bear material costs connected with medical examination of a surrogate mother;
   2) to bear material costs connected with application of ancillary reproductive methods and technologies;
   3) to submit to medical organizations applying reproductive methods and technologies, a medical conclusion about physical, mental health as well as results of medicogenetic examination;
   4) to pay the costs for medical care of surrogate mother during the period of pregnancy, childbearing and after childbearing within fifty six days, and in case of complicated childbearing pay the costs within seventy days.

2. When concluding the surrogate maternity agreement in accordance with the Article 56, the surrogate mother is obliged:
1) to submit to the clients a medical certificate of her physical, mental and reproductive health;
2) to be followed up by a doctor regularly and strictly follow his recommendations and prescriptions;
3) to inform the persons entered into agreement with her about the course of pregnancy with regularity stipulated in the agreement;
4) to pass the born child to the persons entered into surrogate maternity agreement with her.

3. The surrogate mother may not pass the child to other persons.
4. If the surrogate mother has permanent employment, the question about continuation of labour activity is solved by mutual agreement of the parties of the surrogate maternity agreement.

Article 58. The Application of Ancillary Reproductive Methods and Technologies.

1. The application of ancillary reproductive methods and technologies are allowed for women in registered marriage, also concerning the women who are not married, but in their full age and have satisfactory physical, mental and reproductive health, confirmed by the conclusion of medical organization.
2. The woman, who bears and gives birth to a child herself in a result of ancillary reproductive methods and technologies, including the use of donor sperm, is genetic mother.
3. In case of the child’s birth in accordance with this Code, a result of application of ancillary reproductive methods and technologies, the information about the child’s parents is recorded.

Article 59. Legal Consequences of Surrogate Maternity Agreement

1. The spouses (clients) are acknowledged as parents of the child born as a result of application of ancillary reproductive methods and technologies.
   In case of birth of more than one child as a result of application of these methods and technologies, the spouses (clients) are responsible for each born child equally.
2. Upon birth of the child, the spouse (client) entered into surrogate maternity agreement is recorded as mother of the child in a medical certificate of birth.
3. The refusal of spouses (clients) from the child is executed within the legal terms after his birth registration in the civil registry office of territorial justice agency.
   In case of refusal from the child the spouses (clients) gave their consent to application of ancillary reproductive methods and technologies or entered into
the surrogate maternity agreement may not require from the surrogate mother for compensation of material costs.

In case of refusal of the spouses (clients) entered into the surrogate maternity agreement from the child, the maternity right is remained with the surrogate mother at her will and in case of her refusal the is handed for state care.

In case of refusal of the spouses (clients) from the child and his/her adoption by the surrogate mother, these persons are obliged to pay compensation to the surrogate mother in the amount and in the order stipulated in the agreement.

4. In case of dissolution of marriage (matrimony) of spouses (clients), the responsibility for the child born according to the surrogate maternity agreement is imposed on both spouses (clients).

5. In case of death of one of the spouses (clients), the responsibility for the child born according to the surrogate maternity agreement is imposed on survived ones.

6. In case of death of both spouses (clients) and refusal of their close relatives to adopt the born child, the child, at surrogate mother’s will, can be passed to her, and in case of her refusal – for state care.

Transmission of the child to surrogate mother or state organizations as a guardianship doesn’t interfere with his rights as a heir of spouses (clients).

7. After surrogate maternity agreement during the stipulated period, non-use of assisted reproductive techniques and technologies attracts the invalidity of the agreement.

8. After the conclusion of surrogate maternity agreement in case of natural pregnancy at surrogate mother, the contract is terminated with the payment of all expenses, spent by clients according to the surrogate maternity agreement.

CHAPTER 10. CHILD RIGHTS

Article 60. Right of the Child to Live and Be Nurtured in a Family

Each child has the right to live and be nurtured in a family, the right to know his/her parents (parent), the right for their care, the right for joint residence with them, except for the cases when it conflicts with his/her interests.

The child has the right for education by his parents, support of his/her interests, all-round development, and respect of his human dignity.

In case of absence of the parents (parent), deprivation or limitation of their paternal rights and in other cases of loss of parental care the right of the child for nurture in a family is secured by the authority performing the guardianship or trusteeship functions in the manner determined by chapters 13, 15 and 18 of this Code.
Article 61. Right of the Child for Communication with Parents and other Relatives

1. The child has the right for communication with both parents, grandparents, siblings and other relatives. Dissolution of marriage (matrimony), declaring it to be invalid or separate residence of parents shall not influence on the child rights.

   In case of separate residence of parents, the child has the right to communicate with each of them. The child has the right for communication with his parents if they live in different states.

2. The child in difficult life situation has the right for communication with his/her parents and other relatives in the manner determined by the legislation of the Republic of Kazakhstan.

Article 62. The Right of the Child to Express His/Her Opinion

The Child has the right to express his/her opinion during solution of any question in the family that affect his/her interests as well as to be listened in the course of any judicial or administrative trial. Considering of child’s opinion aged ten years is obligatory, except for the cases when it is in conflict with his/her interests. In cases provided by this Code the authorities performing the guardianship or trusteeship functions or the court can make decision only with consent of the child aged ten years and given by him/her in presence of legal representatives.

Child’s opinion is registered by decision of the authority performing the guardianship or trusteeship functions accepted in presence of parents (parent) or other legal representatives at child’s location.

Article 63. The Right of the Child for Name, Patronymic Name and Surname

1. The child has the right for name, patronymic name and surname.

2. The child is named by his parents’ agreement or by other legal representatives of the child. The patronymic name is assigned on the will of parents or other legal representatives of the child, by his father’s name.

   Assignment of double name with separate writing is allowed, but no more than two names.

   In case of double name of father, the patronymic name is assigned according to one of them or in conjoint writing of both father’s names.

   When changing of father’s name, the patronymic of his minor child (children) is changed as well, and of the adult child (children) – upon his/her application.
3. The surname of the child is defined by the surname of parents (parent). If parents’ surnames are different, the child is assigned the surname of father or mother by consent of the parents.

At will of parents, surname of the child can be derived from the name of father or grandfather of a child, both on the part of father and on the part of mother, subject to national traditions.

4. Disagreements as may arise between parents with regard to child’s name and/or surname are solved in a judicial procedure.

5. If paternity has not been established, the name is given to the child by instruction of the mother, patronymic name is assigned according to the name of the person recorded as child’s father, the surname – according to mother’s surname or subject to national traditions by name of grandfather of the child.

6. If both parents of the child are unknown, the surname, name and patronymic name of the child are assigned by the authority performing the guardianship or trusteeship functions, medical or other organizations exercising protection of child’s rights at his/her location.

Article 64. Change of Name and/or Surname of the Child

1. The surname of minor child is changed when both parents change their surnames.

Upon joint application of parents before achievement by the child of the age of 16, the civil registry office of territorial justice agency allows to change name of the child as well as assigned surname by the surname of the other parent based on the interests of the child.

2. In case of marriage (matrimony) dissolution or declaring it to be invalid, the child keeps the surname received at birth.

3. If parents live separately without registration of marriage (matrimony) dissolution in the civil registry office of territorial justice authority and the parent with whom the child lives wants to assign to him/her surname, the civil registry office of territorial justice authority solves this issue depending on child interests and considering the opinion of the other parent, is formed notarially. Considering of parent’s opinion is not necessary in case of impossibility to determine his/her location, deprivation or limitation of his/her paternal rights, recognition of him/her to be disabled as well as in cases of parent’s evasion of child support and upbringing without valid reasons.

4. If parents live separately and registered marriage (matrimony) dissolution in the civil registry office of territorial justice agency and the parent with whom the child lives wants to assign to him his/her surname, the civil registry office of territorial justice authority solves this issue depending on child interests without considering the opinion of the other parent.

5. If the child was born by the persons not married together and paternity has not been establish in legal order, the civil registry office of territorial justice
authority, based on the interests of the child, allows to change his/her surname by surname of the mother, which she has at that moment of the application submission.

6. Change of name and/or surname of child aged ten years can be made only with his/her consent received in presence of his/her legal representatives.

Article 65. Ethnic Origin of the Child

1. Ethnic origin of the child is determined by the ethnic origin of his/her parents.
2. If ethnic origin of parents is different it is determined by will of the child according to the national identity of father or mother at the moment of issuance of ID card or passport.
3. In the future the ethnic origin of the child can be changed upon his/her application only for ethnic origin of the other parent.

Article 66. Property Rights of the Child

1. The child is entitled to get support from his/her parents (parent) and other family members in the order and amount determined by section 5 of this Code.
2. The amounts due to the child in the capacity of alimony, allowances come to disposal of parents (parent) or other legal representatives of the child, except for leaders of organizations for orphans, children left without parental care and are spent for maintenance, education and upbringing of the child.
3. The child has property right for incomes received by him/her, property received by him/her as present or in the order of succession as well as for any other property gained by his assets.
   The child gaining incomes by his/her own work is entitled to participate in costs for family support if he/she lives with parents (parent).
   The right of the child to dispose of his/her beneficially owned property is determined by Civil Code of the Republic of Kazakhstan.
   When the parents exercise authorities for managing property of the child, they shall observe the rules established by article 128 of this Code.
4. The child and parents living together can possess and use property of each other by mutual consent.
5. In case of creation of the right of joint property of parents (parent) and child, their rights to possess, use and dispose of joint property are determined by Civil Code of the Republic of Kazakhstan.

Article 67. Child’s Right to Protection of his/her Right and Legitimate Interests
1. A child is entitled to protection of his/her rights and legitimate interests.

Parents or other legal representatives of a child shall protect rights and legitimate interests of a child; in cases provided in this Code, authority performing the guardianship or trusteeship functions, public prosecutor and court of justice, also authorities of Internal Affairs and other state bodies shall perform this duty.

Underage child declared legally capable before attainment of majority is entitled to exercise rights and obligations at his/her own discretion, inclusive of the right for protection.

2. Child is entitled to protection from abuse on the part of parent(s) or other legal representatives.

In case of infringement of rights or legitimate interests of a child, child neglect, improper performance of parental duties (maintenance, upbringing, education), abuse of parental or guardian rights by parent(s) or other legal representatives, child is entitled to apply for protection of his rights at his discretion to authorities performing the guardianship or trusteeship functions; and at the age of fourteen child is allowed to apply to court.

3. Officials of government agencies and institutions and other individuals, who learned about threat to life or health of a child, violation of his/her rights and legitimate interests, must notify authority performing the guardianship or trusteeship functions at the actual residence of the child of these facts. If such information is obtained, authority performing the guardianship or trusteeship functions must take necessary measures to protect rights and legitimate interests of a child.

CHAPTER 11. PARENTAL RIGHTS AND DUTIES

Article 68. Equality of Rights and Duties of Parents

1. Parents possess equal rights and duties in regard to their child (parental rights).

2. Parental rights, provided for in this Chapter, are terminated on a child’s full age (eighteen years old); or upon marriage of an underage child.

Article 69. Rights of Underage Parent(s)

1. Underage parents are entitled to joint residence with the child and participation in his/her upbringing.

2. After attainment of the age of sixteen years underage unwed parents have the right to exercise their parental rights upon establishment of maternity
and/or paternity. After attainment of the age of sixteen years by the underage parents the authority performing the guardianship functions shall appoint a guardian who will take charge for upbringing of the child jointly with the child’s parents. The disputes between the guardian and child’s parents shall be resolved by the authority performing the guardianship functions with due account for the interests and rights of the underage child and parents.

3. Underage parents are entitled to acknowledge and contest his/her paternity/maternity in accordance with the usual procedure. Upon attainment of fourteen years underage parents are entitled to establishment of paternity of the child in a judicial proceeding.

Article 70. Parental Rights and Duties of Upbringing and Education of a Child

1. Parents are obliged to take care of the child’s health.
2. Parents have right and are obliged to bring up their child.
   Parents have a preferential right for upbringing of their child as compared to other individuals.
   Parents bringing up their child are responsible for his/her physical, mental, moral and intellectual development.
3. Parents are obliged to ensure that their child receives compulsory secondary education.
   Parents, with due regard to the child’s opinion, have the right to choose the educational institution and teaching mode prior the receipt of secondary education by the child.
4. All issues concerning upbringing and education of a child are decided by the parents by mutual agreement according to the child’s interests and with due regard for his/her opinion. In case of disputes between the parents they have the right to apply to the authority performing the guardianship functions or court for resolution.

Article 71. Parental Rights and Obligations of Protection of Child’s Rights and Interests

1. Parents shall act as legal representatives of their child and shall advocate his/her rights and interests in relations with any individual or legal entity, including judicial procedures without special authorization.
2. Parents have no right to represent interests of their child if the authority performing the guardianship functions established that there are contradictions between parents’ and child’s interests. In case of contradictions between parents and a child the authority performing the guardianship functions shall appoint the representative for protection of rights and interests of a child.
Parents have no right to represent interests of their child in case of deprivation or restriction of paternal rights.

Article 72. Execution of Parental Rights to the Benefit of a Child

Parental rights cannot be executed in contravention of child’s interests. Protection of child’s interests must be the prime objective of his/her parents. Parents are not entitled to inflict harm on child’s physical health, mental health or moral development. Parents shall not allow contemptuous, cruel, rude, humiliating treatment, insult or exploitation of a child.

Article 73. Execution of Parental Rights by a Parent Living Separately from a Child

1. The parent living separately from a child is entitled for communication with the child, participation in his/her upbringing, resolution of issues concerning child’s education and other vital issues. Parent living with a child shall not hinder communication of the child with the other parent if this communication doesn’t harm child’s physical and mental health or his/her moral development.

2. Child’s place of residence and legal address in case of separate residence of parents is agreed between the parents. In the absence of such agreement disputes between the parents shall be resolved with participation of the authority performing the guardianship functions at the request of parent(s) according to the child’s interests and with due regard to his/her opinion. Besides, court shall consider child’s affection to each of the parents, brothers and sisters, child’s age, moral and other personal characteristics of the parents, relationships between the child and each of the parents, opportunity to create conditions for child’s development and upbringing (occupation, parents’ work schedule, material and marital status of parents and other similar conditions).

3. Parents are entitled to conclude an agreement in written form on procedure of execution of parental rights by the parent living separately from the child. If parents are unable to come to an agreement, the dispute will be resolved by the authority performing the guardianship functions. In case parents disagree with the decision made, the dispute will be resolved in court with participation of this authority performing the guardianship functions and child’s parents.

4. In case of nonfulfillment of the court decision about execution of parental rights, the sanctions specified by the legislation of the Republic of Kazakhstan are imposed on the guilty parent.
In case of malicious nonfulfillment of the court decision the court can, by request of the parent living separately from the child, make a decision on handing the child to him/her on the basis of the child's interests and opinion.

5. The parent living separately from the child has a right for getting information about his/her child from educational, medical and other organizations.

Delivery of information can be denied only in case of threat to the child's life and health from the part of the parent. Denial of information can be appealed in court.

Article 74. Parents' Right for Reclamation of a Child from Other Persons

1. The parents have a right to demand from the person keeping the child illegally or without due court decision to return the child. In case of the controversy the parents can seize the court for protection of their rights.

When considering this the court is entitled to dismiss the claim, on the basis of the child’s interests, if it came to the conclusion that handing the child to the parents doesn't serve the interests of the child.

2. If the court established that neither parents nor the person keeping the child are able to provide due education and upbringing of the child, the court hands the child to the authority performing the guardianship or trusteeship functions.

CHAPTER 12. DEPRIVATION AND RESTRICTION OF PARENTAL RIGHTS

Article 75. Deprivation of Parental Rights

1. Parent (parents) are deprived of parental rights if they:

   1) evade parental duties, including malicious evasion of payment of alimony;

   2) decline, without good excuse, to take the child from maternity hospital, orphan asylum, organization for children left without the parents’ custody and other organizations;

   3) abuse parental rights;

   4) abuse a child, including physical and psychic abuse, and sexual abuse of children;

   5) abuse alcohol, drugs, psychotropic substances and their analogues.

2. Parent (parents) will be deprived of parental rights in case of the intentional crime against life and health of the child, party to the marriage or other family members.
Article 76. The Order of Deprivation of Parental Rights

1. Deprivation of parental rights is effected judicially. Cases on deprivation of parental rights are considered upon application of one of the parents or other legal representatives of the child, agencies and organizations performing functions on protection of minors’ rights and upon the claim of the prosecutor.

2. Cases on deprivation of parental rights are considered in the presence of the prosecutor and the authority performing the guardianship functions.

3. When considering a case on deprivation of parental rights, the court addresses the issue on recovering alimony for child support from the parent (parents) deprived of parental rights.

4. If, when considering a case on deprivation of parental rights, the court discovers elements of criminally punishable act in the actions of the parent (parents), it shall, by means of a special decree, bring it to the notice of the prosecutor.

5. The court shall, within three days after the court decision about deprivation of parental rights comes in force, send an abbreviate of adjudication to bureau of civil registration of the territorial justice agency in the place of state registration of the child’s birth and the authority performing the guardianship functions in the place of the child’s residence.

Article 77. Consequences of Deprivation of Parental Rights

1. Deprivation of parental rights leads to the loss of rights based on blood relation to a child, including the rights for alimentation, privileges and public welfare payments for parents.

2. Deprivation of parental rights does not release the parent (parents) from the duty to keep the child. This duty, however, can be released with the child’s adoption.

3. The issue on joint residence of the child with the parent deprived of parental rights, is effected judicially.

4. The child, whose parent is deprived of parental rights, reserves the right to have or use living quarters, have property rights, based on blood relation to the parents and other relatives, including the rights to inheritance.

5. If it is impossible to hand the child to the other parent or both parents are deprived of human rights, the child is handed to the authority performing the guardianship or trusteeship functions.

6. By request of the parent (parents), the authority performing the guardianship functions allows the parent (parents) to visit the child if it doesn't adversely affect the child.
7. Adoption of the child if the parent (parents) is deprived of parental rights, is allowed six months after the court decision about deprivation of parental rights comes in force.

If one of the parents is deprived of human rights, adoption of the child is effected upon the consent of the other parent.

Article 78. Restoration of Parental Rights

1. The rights of the parent (parents) can be restored if they changed their behaviour, lifestyle and attitude towards the upbringing of the child.

2. Restoration of parental rights is effected judicially upon application of the parent deprived of parental rights. Cases on restoration of parental rights are considered in the presence of the parent (parents), authority performing the guardianship functions and the prosecutor.

3. The court is entitled, on the basis of the child’s opinion, refuse to settle of a claim of the parent (parents) on restoration of parental rights if it contradicts to the child’s opinion.

Restoration of human rights with respect to the child having attained the age of ten is possible upon the consent of the child.

It is not possible to restore parental rights if the child has been adopted and the adoption has not been canceled.

Article 79. Restriction of Parental Rights

1. The court can make a decision, on the basis of the child’s interests, to restrict parental rights by removing the child from the parent (parents) without deprivation of parental rights.

   Accommodation of the child, whose only parent (parents) is deprived of or restricted in parental rights, is effected by the authority performing the guardianship functions in the place of the child’s residence.

2. Restriction of parental rights is can be effected if it is dangerous for a child to live with the parents:

   1) due to the circumstances beyond the control of the parents (mental disease or other chronic disease, a set of grievous circumstances);
   2) due to the behaviour of the parents, if there is no sufficient grounds for deprivation of parental rights.

   If the parent (parents) does not change his behaviour within six months after the court decision on restriction of parental rights, the authority performing the guardianship functions shall make a claim for deprivation of human rights.

3. The claim on restriction of human rights can be made by close relatives, authority performing the guardianship functions and the prosecutor.
4. Cases on restriction of parental rights are considered with obligatory participation of the prosecutor and the representative of the authority performing the guardianship or trusteeship functions.

5. When considering the case on restriction of parental rights the court is entitled to decide the issue on recovering alimony for child support.

Article 80. Consequences of Limitation of the Parental Rights

1. Parents, whose parental rights are limited by the court, forfeit the right to bring up the child independently, and in the cases stipulated by the Article 79, Item 2, Sub-item 2) of this Code as well as rights to benefits and public welfare payments for persons who have children.

2. Limitation of the parental rights does not release parents (parent) from the obligation to maintain the child.

3. Child, whose parents (parent) are limited in their parental rights, reserves the property right to the housing or right to use the housing as well as reserves property rights founded on the facts of having kinships with parents and other relatives, including the right to inheritance.

4. If both parents are limited in their parental rights the child is placed under care into the authority performing the guardianship functions.

5. Parents, whose parental rights are limited by the court, can be allowed to contact with the child if it does not have negative impact on the child. Parents (parent) are allowed to contact with the child upon the consent of the authority performing the guardianship functions or guardian (trustee), fosterers of the child or administration of the facility where the child lives.

Article 81. Cancelling of Limitation of the Parental Rights

1. If there are no reasons upon which the parents (parent) were limited in their parental rights, the court upon the claims of the parents (parent) can make decision on return of the child to his/her parents (parent) and cancellation of consequences of the limitations specified in the Article 80 of this Code.

2. Court considering the child’s opinion has the right to dismiss the claim if returning the child to the parents (parent) conflicts with his/her interests.

Article 82. Removal of the Child when there is an Instant Danger to Life of the Child or his/her Health

1. If there is an instant danger to life of the child or his/her health, the authority performing the guardianship functions has the right to remove the child from his/her parents (parent) immediately or other persons who cares for him/her.
The child is removed by the authority performing the guardianship functions based upon the decision on removal of the child made by the local executive authority of the city of the republican meaning, capital, district and town of the oblast meaning.

2. When removing the child, the authority performing the guardianship functions shall immediately inform the prosecutor, ensure temporary placement of the child and file the claim on limitation or deprivation of parental rights of the parents (parent) within seven days after making act on removal of the child by the local executive authority of the city of the republican meaning, capital, district and town of the oblast meaning.

Article 83. Decision Enforcement of the Child Removal Court

1. Decisions of the court on removing the child from parents (parent) and handing his/her to the other person (persons) shall be enforced with compulsory participation of the representative of the authority performing the guardianship functions and persons (person) who take the child as well as the representative of the authorities of the internal affairs if necessary.

2. If enforcing the court decision on removal of the child from parents (parent) and handing his/her to the other person (persons) without prejudice to his/her rights is impossible, the child can be temporarily placed into the organizations performing functions on protection of child’s rights upon the court decision.

CHAPTER 13. CHILD ADOPTION

Article 84. Children Allowed to be Adopted

1. Adoption is allowed for minor children, which birth was registered in manner prescribed by the laws of the Republic of Kazakhstan, and only in their interests with regard their harmonious physical, mental, spiritual and moral development.

2. Adoption is allowed for children whose one or both parents:
   1) are died;
   2) abandoned;
   3) are deprived and non-rehabilitated in parental rights;
   4) consented for child adoption;
   5) are juridically declared disabled, missing or dead;
   6) are unknown.

3. Children, mentioned in item 2 of this Article, are on the primary, regional, and the centralized registration of orphans, children left without parental care, can be handed for adoption to children’s relatives irrespectively of
their citizenship and place of residence or to the citizenship of the Republic of Kazakhstan, constantly living at the territory of the Republic of Kazakhstan in accordance with the legislation in Kazakhstan.

4. Children, the citizens of the Republic of Kazakhstan, are on the centralized registration of orphans, children left without parental care, can be handed for adoption by citizens of Kazakhstan constantly living outside of the Republic of Kazakhstan, and relatives of children irrespectively of their citizenship.

Children, the citizens of the Republic of Kazakhstan, who are on the centralized registration of orphans, left without parental care, can be adopted by the foreign citizens only if they cannot be adopted by the relatives of the children or by the citizens of the Republic of Kazakhstan domiciling at the territory of the Republic of Kazakhstan and outside it.

On considering the child adoption by the foreign citizens, the court is obliged to ensure in the implementation of the authorized body in the field of protection of children’s rights in the Republic of Kazakhstan, the right of primary adoption of this child by relatives irrespectively of their citizenship and place of residence or by the citizenship of the Republic of Kazakhstan.

5. The children can be adopted by the foreign citizens of only that country that has equivalent international obligations with the Republic of Kazakhstan to protect rights and interests of children.

6. The order of children transference, who are the citizens of the Republic of Kazakhstan is approved by the Government of the Republic of Kazakhstan for adoption.

7. The permission about children transference for adoption is issued by the authority performing the guardianship functions, based on the commission conclusion.

8. The operating procedures are established by the Government of the Republic of Kazakhstan.

Article 85. Rights and Obligations of the Persons Wishing to Adopt the Children

1. Citizens of the Republic of Kazakhstan domiciling at the territory of the Republic of Kazakhstan wishing to adopt the children are obliged to choose the child personally, have direct contacts with him/her for a period not less than two weeks, submit written application for child adoption as well as housing survey certificate, a statement of financial implication, a statement of marital status, a health certificate, a statement of clean record to the authority performing the guardianship functions in the place of child location.

2. Citizens of the Republic of Kazakhstan domiciling at the territory of the Republic of Kazakhstan wishing to adopt orphans or children deprived of
parental care under 1 year old have the right to take children under the guardianship or foster care until the procedure of adoption is completed.

3. Citizens of the Republic of Kazakhstan constantly living outside of the Republic of Kazakhstan, foreign citizens pretending to adopt the child are obliged to submit written application for child adoption as well as a statement of financial implication, a statement of marital status, a health certificate, including a mental health, the absence of drug (toxic) and alcohol abuse, a statement of clean record, report on moral qualities of the potential adopting parents made by special authorized foreign state authorities and adoption organizations to the authority performing the functions on protection of child’s rights. After submitting the documents to the authority performing the functions on protection of child’s rights, with the consent of the adoptive parent to adopt a child an adoptive parent is obliged to have direct contacts with him/her for a period not less than four weeks.

Article 86. Rights and Obligations of the Adoptive Parent

1. Adoptive parent is obliged to bring up a child, look after his/her health, physical, mental, spiritual and moral development.

2. Adoptive parent has the right to determine independently methods to bring up the child with regard to opinion of the child and recommendations of authority performing the guardianship functions, and is obliged to satisfy the requirements stipulated by this Code.

3. Adoptive parent with regard to opinion of the child has the right to choose secondary education institution and form of education for the child, and shall provide the child with compulsory secondary education.

4. Adoptive parents being citizens of the Republic of Kazakhstan domiciling at the territory of the Republic of Kazakhstan shall submit reports on living conditions, education, upbringing and health state of the adopted child to the authority performing the guardianship functions no less than once a year until the child is of 18 years old in the place where the court makes decision on child adoption.

Adoptive parents, the citizens of the Republic of Kazakhstan, constantly living outside of the Republic of Kazakhstan and foreign adoptive parents must submit reports on living conditions, education, upbringing and health state of the adopted child to the authority of protection of child’s rights in the first three years after the entry into legal force of the court decision about adoption every six months, the following years – no less than once a year till the child is 18.

In some cases, the frequency of report presentation depending on the particular situation prevailing in the adoptive parents’ family is established by the decision of the authority performing functions on protection of child’s rights in Kazakhstan.
Adoptive parents being citizens of the Republic of Kazakhstan constantly living outside of the Republic of Kazakhstan and foreign adoptive parents submit report through foreign authorities of the Republic of Kazakhstan situated in the country of residence of the adoptive parent and the child.

If adoptive parents, the citizens of the Republic of Kazakhstan, constantly living outside of the Republic of Kazakhstan and foreign adoptive parents fail to submit or untimely submit reports in the manner provided in this Item, the activity of the adoption agency represented their interests at the adoption of the child (children) in the Republic of Kazakhstan is subject to early termination on the bases provided by Article 112, Item 8, Sub-item 6) of this Code.

Article 87. Procedure of Child Adoption

1. Adoption is performed by the court upon submission of an application of the persons (person) wishing to adopt the child. Cases for adoption of the child are examined by the court as special cases according to the rules of the Code of civil procedure of the Republic of Kazakhstan.

Cases for adoption of the children are examined by the court with compulsory participation of adoptive parents, representative of authority performing the guardianship functions as well as the prosecutor.

2. When adopting a foreign child in the Republic of Kazakhstan by the citizens of the Republic of Kazakhstan, consent of child legal representative shall be secured as well as of the competent authority of the state which citizenship the child has and consent of the child for adoption if required under the laws of the mentioned state.

3. Adoption of the child being the citizen of the Republic of Kazakhstan and living outside the Republic of Kazakhstan performed by the competent authority of foreign state, which citizenship adoptive parent has, is valid if the authority performing the guardianship functions gives prior consent for adoption in the place of his/her or his/her parents (parent) residence prior to leave the Republic of Kazakhstan.

Article 88. Attachment of the Rights and Obligations of the Adoptive Parents

Rights and responsibilities of the adoptive parent and the adopted child originate from the date of coming into legal force of the court decision on adoption.

The court is obliged within three days from the date of coming into legal force of the court decision on child adoption to send an abstract of this decision to the bureau of civil registration of territorial justice agency and to the authority performing the guardianship functions in the place of making decision.
Article 89. Registration of the Children Subject to be Adopted.

1. Children subject to be adopted are registered in the manner prescribed by the Article 117, Items 5 and 6 of this Code.

2. Persons wishing to adopt the children are registered by the authorities performing the guardianship or trusteeship functions in the manner prescribed by the Government of the Republic of Kazakhstan.

3. Foreigners being the citizens of the Republic of Kazakhstan, wishing to adopt the children are registered through foreign authorities of the Republic of Kazakhstan in the manner prescribed by the Government of the Republic of Kazakhstan.

Article 90. Adoption of Several Children

1. One person can adopt several children being brothers and sisters or not being relatives to each other.

The rights and obligations between the adopted children not being relatives to each other origin as between brothers and sisters.

2. Adoption of brothers and sisters from one family is not allowed by different people, except for the cases when the adoption meets children’s interests and children do not know about their kinship, did not live and were not brought up together.

Article 91. Persons Entitled to be the Adoptive Parents

1. Adoption is allowed only if there are conditions for normal physical, mental, spiritual and moral development, upbringing and education of the child in the family of the adoptive parent.

2. Adoptive parents can be adult persons, except for:
   1) persons declared disabled or partially disabled by the court;
   2) husband and wife one of whom is declared disabled or partially disabled by the court;
   3) persons deprived of parental rights or restricted in parental rights by the court;
   4) persons suspended from custodian (guardian) obligations for improper discharge of obligations imposed on them by the law;
   5) former adoptive parents, if adoption was recalled by the court due to their fault;
   6) persons who due to the health state cannot perform their parental obligations. List of diseases preventing a child from adoption, guardianship, foster care is established by the Government of the Republic of Kazakhstan;
   7) persons who do not have permanent place of residence;
   8) persons of non-traditional sexual orientation;
9) persons who have outstanding or unexpunged conviction for intended crime at the time of adoption;
10) stateless persons;
11) male persons who do not have registered marriage, except for fact of child upbringing no less than three years due to the death of mother or her deprivation of parental rights;
12) persons who do not have a job providing the adopted child with minimum living wage prescribed by the laws of the Republic of Kazakhstan at the time of adoption;
13) persons who are registered in narcological or psychoneurologic dispensaries.

3. Persons not being spouses cannot jointly adopt the same child.

Article 92. Age Difference between the Adoptive Parent and the Adopted Child

1. Age difference between the adoptive parent and the adopted child shall not be less than sixteen years and more than forty-five years. For reasons found by the court to be valid, the age difference can be re-considered.
2. In case of adoption of the child by the stepfather (stepmother), the age difference specified in Item 1 of the present Article is not required.

Article 93. Consent of Legal Representatives to Child Adoption

1. The parents consent is required to adopt the child if they are not deprived of parental rights.
   In case of adoption of the child of underage parents aged less than sixteen years old, consent of legal representatives is also required.
   If underage parents do not have legal representatives or if the child was abandoned by the underage parents in medical facility after his/her birth and no one cares of his life more than 3 months, consent of authority performing the guardianship functions is required.
2. Consent of the parents (parent) to adoption of the child shall be given in a statement certified by a notary public or by the director of the institution where the child lives without parental care, or by the authority performing the guardianship functions in the place of adoption of the child or in the place of residence of parents (parent) as well as it can be given directly by the court during adoption.
   Prior to making the court decision on adoption of the child, the parents are entitled to cancel their consent to adoption.
3. The parents can give their consent to adoption of the child by a particular person or without specifying any particular persons. Authorities performing the guardianship functions shall present to the court their conclusion
of the adoption compliance with the child’s interests. Such conclusion is not required in case of adoption of the child by his/her stepfather (stepmother).

4. It is required to obtain a written consent from the guardians (trustees) to adopt the children being under guardianship (trusteeship).

5. It is required to obtain a written consent from the fosterers to adopt child being under foster care in accordance with the contract on child foster care.

6. It is required to obtain a written consent of the directors of such facilities to adopt the orphans, children deprived of parental care and living in education, medical and other facilities.

7. The court is entitled, in the interests of the child, to make a decision on his/her adoption without consent of the persons specified in items 1, 4, 5, 6 of this Article.

In case of refusal from the child after his birth in a medical organization without registration in accordance with the legislation of the Republic of Kazakhstan, in order of both parents or mother, who is not married abandonment application as well as at detection of neglected (abandoned) child at the age of no more than three years, the court is entitled, in the interests of the child, to consider the case on adoption of the child by citizens of the Republic of Kazakhstan at the end of the three-month period after the abandonment or detection of the child.

Article 94. Adoption of the Child without Consent of his (her) Parents

(1) Consent from the child’s parents (parent) is not required for his/her adoption if the parents:

1) are unknown or declared dead by the court, or missing;
2) are declared disabled by the court;
3) are deprived of the parental rights by the court;
4) do not live together with the child and deviate from his/her education and support within more than six months for the reasons found by the court to be unreasonable.

If there is a written application for child abandonment by the single mother in the medical facility filled under the laws of the Republic of Kazakhstan.

Article 95. Consent of the Child to Adoption

It is required to obtain consent of the child reached the age of ten years old for his/her adoption.

Consent of the child to adoption is established by the court in the presence of the parents or other legal representatives of the child, the prosecutor.
Article 96. Consent to Adoption of the Child by One of the Spouses

1. In case of the child adoption by one of the spouses, a written consent of the other spouse is required, if the child is not adopted by the both spouses.

2. Consent of the husband (wife) to adoption of the child is not required if the spouses actually terminated the family relationships or live separately within more than a year.

Article 97. Name, Patronymic and Surname of the Adopted Child

1. The adopted child preserves his/her name, patronymic and surname.

2. At the adoptive parent’s request, the adopted child is given the surname of the adoptive parent and the name, specified by the adoptive parent, if it does not contradict the child’s interests. Patronymic of the adopted child is determined by the name of the adoptive parent, if the adoptive parent is a man; if the adoptive parent is a woman – by the name of the person specified by her as the father of the adopted child.

   If surnames of the adoptive parents are different, the adopted child is given the surname of one of the spouses as agreed by them.

3. If the child is adopted by a single person, at the request of the latter, the surname, name and patronymic of the mother (father) of the adopted child are recorded in the register of births as specified by the adoptive parent under the state registration of adoption in bureau of civil registration of territorial justice agency. Father (mother) information cannot be specified by the wish of the adoptive parent.

4. The surname, name and patronymic of the adopted child who is at the age of ten years old can be changed only with the consent of the child, except when the secret of adoption applies.

5. Change of the surname, name and patronymic of the adopted child is specified in the court decision on the adoption.

Article 98. Change of Date and Place of Birth of the Adopted Child

1. To provide confidentiality of adoption, at the adoptive parent’s request, date of birth of the adopted child can be changed, but not more than for six months, as well as the place of his/her birth.

   Change of the date of birth of the adopted child is allowed only when adopting the child under three years old.

   Change of the place of birth of the adopted child is allowed only within the territory of the Republic of Kazakhstan and at the adoptive parent’s request irrespective of the age of the child.

2. Change of the date and/or place of birth of the adopted child is specified in the court decision on the adoption.
Article 99. Registration of the Adoptive Parents as Parents of the Adopted Child

1. At the adoptive parents’ request, the court can deliver a decision to register the adoptive parents in the births register book as the parents of the adopted child.

2. Necessity of such registration is specified in the court decision on the adoption.

Article 100. Legal Consequences of the Child Adoption

1. The adopted child and his/her descendants in relation to the adoptive parents and their relatives, and the adoptive parents and their relatives in relation to the adopted child and his/her descendants are equaled in their personal non-property and property rights and obligations to the relatives by birth.

2. The adopted child forfeits personal non-property and property rights and is released from obligations to his/her natural parents.

3. When the child is adopted by one person, personal non-property and property rights and obligations can be preserved at the mother’s wish if the adoptive parent is a man, or at the father’s wish, if the adoptive parent is a woman.

4. Liability for preservation of the property of the adopted child is imposed upon the adoptive parent. In case of the adoption denial, liability for return of this property is imposed on the adoptive parent as well.

5. Preservation of relationships between the adopted child and one of his/her parents or relatives of the deceased parent is specified in the court decision on the adoption.

6. Legal consequences of adoption of the child stipulated by the Items 1 and 2 of this Article come into force regardless of registration of the adoptive parents in the register of this child birth as parents (parent).

Article 101. Preservation of the Right to Allowances and Other Social Benefits by the Adoptive Child

The child granted, at the moment of his/her adoption, by the right to a pension of parents (parent) in pension funds, allowances payable to him/her in connection with his/her parents’ death and other social benefits, preserves this right after adoption.

Article 102. The Secrecy of the Child Adoption

1. The secrecy of the child adoption is protected by the law.
2. Parents, relatives, officers of the organizations performing functions on protection child’s rights and/or state registration of the adoption, judges delivering decisions on child adoption as well as any other persons informed on the adoption, are obliged to keep the secrecy of adoption.

Article 103. Adoption Annulment

1. The adoption is annulled in the following cases:
   1) if decision on the adoption was delivered on the basis of forged documents;
   2) if the adoption was made without consent of the persons specified in the Article 93 of this Code;
   3) if adoption was made by one of the spouses without written consent of the another spouse;
   4) if provisions specified by Item 2 of the Article 91 of this Code were violated.

2. The adoption is annulled judicially.

3. The case about annulment of the adoption is examined by the court with compulsory participation of the adoptive parents, prosecutor and representative of the authority performing the guardianship functions.

Article 104. Persons Entitled to Annul the Adoption

The demand to annul the adoption can be raised by the parents of the adopted child, by the spouse of the adoptive parent, by persons whose rights are infringed by the adoption, by prosecutor or by the authority performing the guardianship functions.

Article 105. Consequences of the Adoption Annulment

1. Adoption shall be deemed annulled from the moment of making the court decision on adoption.

2. In case of adoption annulment, the mutual rights and obligations of the adopted child, the adoptive parents and the relatives of the adoptive parents are terminated, and mutual rights of the child and his/her parents (parent, his/her relatives) are restored, if it complies with the child’s interests.

3. At the request of parents (parent), the child is given back his/her former name, patronymic and surname, and his/her former date and place of birth are restored if they were changed when adopting.

4. The court is obliged within three days from the date of entry of the court decision into legal force to send an abstract of this decision to the bureau of civil registration of territorial justice agency and to the authorities performing the guardianship functions in the place of state registration of adoption.
Article 106. Reasons for Cancellation of Child Adoption

1. Reasons for cancellation of child adoption are:
   1) if the adoptive parents evade the parental obligations imposed on them;
   2) if the adoptive parents abuse their parental rights;
   3) if the adoptive parents abuse the adopted child;
   4) if the adoptive parents perform physical or mental child violence;
   5) if the adoptive parents encroach on the adopted child sexual integrity;
   6) if the adoptive parents (parent) are found to be alcoholics, drug and/or toxic addict;
   7) if the rights of the child are infringed that specified by the Laws of the Republic of Kazakhstan and international treaties in which Republic of Kazakhstan participates.

2. The court is entitled to cancel the child adoption for other reasons as well, based on the child’s interests and taking into account the child’s opinion.

Article 107. Cancellation of the Child Adoption

1. The child adoption is cancelled judicially.

2. The case about cancellation of the adoption is examined with participation of the adoptive parents, authority performing the guardianship functions and the prosecutor.

3. Adoption is terminated following entry of the court decision on child adoption annulment into legal force.

   The court is obliged, within three days from the date of entry of the court decision on child adoption annulment into legal force, to send an abstract of this decision to the bureau of civil registration of territorial justice agency and to the authority performing the guardianship functions in the place of state registration of adoption.

Article 108. Persons Possessing the Right to Ask for Cancellation of the Child Adoption

The parents or adoptive parents or the adopted child aged fourteen years old, the authority performing the guardianship functions and the prosecutor, in the child’s interests, have a right to ask for cancellation of the adoption.

Article 109. Consequences of the Adoption Cancellation

1. When the adoption is cancelled by the court, mutual rights and obligations of the adopted child, the adoptive parents and the relatives of the
adoptive parents are forfeited, and mutual rights of the child and his/her parents (parent, his/her relatives) are restored, if the child’s interests require it.

2. In case of adoption cancellation the child is given to his/her parents (parent) upon court order. In case of absence of the parents (parent), or if giving the child to his/her parents (parent) contradicts his/her interests, the child is placed under the care to the authority performing the guardianship functions.

3. The court also decides whether the child preserves the name, patronymic and the surname given to him/her upon adoption and whether the changed date and place of birth are restored upon adoption.

   Change of the name, patronymic and surname of the child aged ten years old is allowed with his/her consent only.

4. The court, based upon the child’s interests, is entitled to charge the former adoptive parent with allowance for support of the child in the amount established by the Articles 139 and 141 of this Code.

Article 110. Inadmissibility to Cancel the Adoption upon Attainment of Majority by Adopted Child

Cancellation of the adoption is not allowed if the adopted child is attained the majority on the date of asking for cancellation of the adoption, except for the cases when such cancellation is mutually agreed upon by the adoptive parent and the adopted child, and the parents (parent) of the adopted child, if they are alive, not deprived or restricted in the parental rights or not declared disabled by the court.

CHAPTER 14. ACCREDITATION OF ADOPTION AGENCIES

Article 111. General Provisions

1. Accreditation is provided for agencies acting in the specified sphere in the territory of its state not less than ten years at the moment of submission of an application for accreditation by development branches or representative offices.

2. Accreditation is performed before accounting registration of the agency branch and/or representative office.

3. Personnel of the agency branch and/or representative office cannot be officers of authority performing functions on protection of child’s rights, local agencies, organizations for orphans, children left without parental care, including their spouses and and close relatives.

4. The procedure of adoption agency accreditation is specified by the Government of the Republic of Kazakhstan.
1. The case about agency accreditation, including accreditation refusal is examined by the authorized agency on the rights of the child.

2. To perform child adoption the authorized representative of the agency within the Republic of Kazakhstan is obliged to submit application with the following documents attached:
   1) notarized copies of the constitutive documents;
   2) copy of document issued by the competent authority of the state where agency is located confirming his/her authority to act in the corresponding sphere;
   3) reference letter of the competent authority of the state issued the agency authority document or monitoring agency activity on possibility for the corresponding activity within the Republic of Kazakhstan;
   4) list of services provided by the agencies for adoption candidates;
   5) obligations to monitor living and education conditions of the adopted children and to provide the related reports and information in due course;
   6) obligations to monitor registration of the adopted child in consular office of the Republic of Kazakhstan on arrival of the adoptive parents at the state of their residence;
   7) notarized letter of attorney issued by the agency to the authorized representative.

   Documents from Subitems 1) - 4) of this Item are valid within six months from their issuance date. If necessary, the authorized agency on the rights of the child has the right additionally to ask for originals of those documents.

   All provided documents shall be legalized in the manner stipulated by the Laws of the Republic of Kazakhstan and international treaties in which Republic of Kazakhstan participates.

3. Decision on agency accreditation is made by the authorized agency on the rights of the child as agreed with the Ministry of Foreign Affairs of the Republic of Kazakhstan, Ministry of Internal Affairs of the Republic of Kazakhstan, Ministry of Health of the Republic of Kazakhstan, Ministry of Justice of the Republic of Kazakhstan and authorized agency on social protection, providing the corresponding decisions on possible accreditation within their competence.

4. Decision on agency accreditation or accreditation refusal is issued by the authorized agency on the rights of the child within ten working days after its making with reasons in case of accreditation refusal.

5. Application of the authorized representative for accreditation is considered within the terms specified in the Laws of the Republic of Kazakhstan on order for considering applications of individual and legal entities.

6. If decision on agency accreditation was lost the representative can get its copy in the authorized agency on the rights of the child within ten working days after the submission of the corresponding application.
7. Agencies are accredited for one year. Decision on accreditation is unalienable and cannot be transferred to the other persons.

8. Reasons for agency accreditation refusal, extension and/or early cessation of its activity are:

1) non-compliance of the provided documents with the requirements specified by the Laws of the Republic of Kazakhstan;
2) inadequate information on its activity;
3) negative information on activity of the agency or its branches and/or representative offices from the competent authorities of the foreign state as well as state authorities of the Republic of Kazakhstan.
4) untoward socioeconomic, political and ecological situation, acts of war within the state, locations of the agency;
5) violation of the Laws of the Republic of Kazakhstan by the personnel of the agency branch and/or representative office;
6) agency violation of obligations to monitor the living and education conditions of the adopted children and provide the related reports and information in due course;
7) agency violation of obligations to monitor the adoptive child registration in consular office of the Republic of Kazakhstan in due course;
8) cessation of agency activity within its state.

9. Agency received decision on its activity accreditation refusal has the right to re-refer to the authorized agency on the rights for the child after six months.

Article 113. Extension, Suspension and/or Early Cessation of Activity of Branches and/or Representative Offices of the Agencies

1. To extend agency accreditation, the agency submits application for extension to the authorized agency on the rights of the child not later than thirty calendar days prior to accreditation expiry.

Application for the agency accreditation extension is considered by the authorized agency on the rights of the child within ten working days from the date of application acceptance. The motivated decision on extension (refusal on extension) of the agency accreditation is accepted by the authorized agency on the rights of the child and sent to the branch and (or) to the agency representation within five working days from the date of decision-making.

2. Accreditation term is tacitly extended upon the expiry of the term specified in the Item 1 of this Article, if they have met all the requirements set by the Laws of the Republic of Kazakhstan within a year after the first agency accreditation.

3. Decision on agency accreditation is suspended by the authorized agency on the rights of the child if:

1) the standards of this Code are violated;
2) the authorized agency on the rights of the child and/or other state authorities received reasonable appeals against activity of the agency branches and/or representative offices.

4. If the violations suspending decision on agency accreditation are rectified within one month, its activity is revived by the authorized agency on the rights of the children.

5. Agency branches and/or representative offices cease their activity in advance in the following cases:
   1) failure of adoption activity according to the agency constitutive documents;
   2) failure to rectify violations within one month that suspended decision on the agency accreditation;
   3) agency branch and/or representative office submitted application for voluntary cessation of activity;
   4) decision on agency accreditation expired and extension of accreditation for new term is impossible;

6. Early cessation of activity of the agency branches and/or representative offices is considered within ten working days from the date of detection (occurrence) of circumstances described in Item 5 of this Article.

   The motivated decision on the activity of agency branch and/or representative office termination is accepted and sent to the agency by authorized agency on the rights of the child within ten working days from the date of decision-making.

7. Decision on suspension or early cessation of activity of the agency branch and/or representative office applies to the territories of the corresponding political unit by publishing the decision in mass media.

Article 114. Rights and Obligations of Agency Branch and/or Representative Office

1. Agency branch and/or representative office has the right to:
   1) provide help when adopting to the citizens of the state where this agency is located, citizens of other states domiciling at the location of the representative office;
   2) receive information on the child to be adopted in due course and quantity;
   3) appeal against actions and decisions of the officers and state agencies in the manner prescribed by the Laws of the Republic of Kazakhstan;
   4) receive information on change of the Laws of the Republic of Kazakhstan on adoption procedure as well as other information regarding their direct activity.

2. Agency branches and/or representative are duly obliged to:
1) register legal entities in the manner prescribed by the Laws of the Republic of Kazakhstan on registration of the branches and representative of the legal entities after accrediting;

2) provide certificate of accounting registration to the authorized agency on the rights of the child and its territorial subdivision where adoption activity will be performed;

3) inform the authorized agency on the rights of the child and its territorial subdivision on activity start within five days;

4) present documents of pretending adoptive parents to the authorized agency on the rights of the child of the Republic of Kazakhstan to choose the child to be adopted as well as to the court to adopt;

5) receive upon application of the pretending adoptive parents, the child information: name, age, sex, health status;

6) receive the pretending adoptive parents and support them when drawing up of adoption;

7) participate in court sessions when adoption proceeding, receive the court decision on adoption as well as help the adoptive parents to record certificate of birth, adoption and passport to leave the Republic of Kazakhstan;

8) make another activity on representation of interests of the pretending adoptive parents and adoptive parents in the Republic of Kazakhstan not prohibited by the Laws of the Republic of Kazakhstan.

3. Agency branches and/or representative offices shall provide the authorized agency on the rights of the child with reports on living and education conditions of the children in families of the adoptive parents prepared by the competent authority of the state where the adopted child lives (hereinafter – reports).

4. First three years after the court decision on adoption has come into legal effort the report is presented every six months. Then, the reports are presented yearly.

    in specific cases the frequency is specified upon the decision of the authorized agency on the rights of the child depending on the situation within family of the adoptive parents.

5. Reports are presented in official language of the related foreign state.

    Presented reports shall be legalized in due course unless otherwise provided for by the laws of the Republic of Kazakhstan as well as translated into state or Russian language. Meanwhile, translation or signature of the translator shall be certified in foreign authority of the Republic of Kazakhstan in the place of residence of the adoptive parents or by notary officer within the Republic of Kazakhstan.

6. Reports and information on consular registration of the adoptive children are registered in the manner specified by the authorized agency on the rights of the child.
SECTION 4. GUARDIANSHIP OR TRUSTEESHIP

CHAPTER 15. DETECTION AND PLACEMENT OF ORPHANS AND CHILDREN DEPRIVED OF PARENTAL CARE

Article 115. Protection of the Rights and Interests of the Orphans and Children Deprived of Parental Care

1. Rights and interests of the orphans and children deprived of parental care shall be protected by the authorized agency on the rights of the child and other state authorities within their competence as well as by the legal representatives of these children.

2. Authorized agency on the rights of the child shall register orphans and children deprived of parental care based on the specific circumstances of parental care deprivation, select form of children placement as well as follow up conditions of maintenance, upbringing and education.

3. Mediation or any other activity on selection and placement of the orphans and children deprived of parental care is prohibited for individual and legal entities, except for the state authorities within their competence.

Activity of the authorities performing the guardianship functions and other facilities on detection and placement of the orphans and children deprived of parental care, functions on children right protection as well as activity of the adoption agencies specified by this Code is not mediation.

Individual and legal entities specified in this Article cannot pursue commercial purposes in their activity.

Article 116. Form of Protection of the Rights and Interests of Orphans and Children Deprived of Parental Care

The rights and interests of the orphans and children deprived of parental care are protected by placing their in the family for upbringing (under adoption, guardianship, foster care), if it is impossible – in the facilities of all types for orphans and children deprived of parental care.

Article 117. Detection and Registration of the Orphans and Children Deprived of Parental Care

1. Orphans and children deprived of parental care are detected by all individual and legal entities which have known about lack of parental care.
2. Individual and legal entities shall inform the authorities performing the guardianship functions on the orphans and children deprived of parental care at their location.

3. Personnel of medical facilities within three days after newborn was abandoned shall inform the authority performing the guardianship functions of the related political unit.

4. Local government agency in case of an establishment of the care absence from his parents or relatives within three days from the obtainment of information shall conduct a survey of child’s conditions and provide protection of the rights and interests of the child before his/her placement.

5. Local government agency of regions, cities of the republican meaning and the capital where the orphans located, children left without parental care provides child’s placement (primary accounting) within one month from the date of information obtainment about them.

If it is impossible to hand over the child to the family at the end of the month they send an information about the child to the authority performing the guardianship functions of the related political unit for regional accounting and rendering of assistance in the subsequent child placement in family of the Republic of Kazakhstan citizens, constantly living in its territory.

6. If it is impossible to hand over the orphans, children left without parental care to the citizens of the Republic of Kazakhstan for adoption, under the guardianship or trusteeship, foster care, the local government agencies of regions, cities of the republican meaning and capitals are obliged to inform the authorities performing functions on protection children’s rights for centralized accounting of orphans, children left without parental care at the end of two months from the date of child information obtainment.

The order of the account organization of orphans, children left without parental care and children for adoption, and access to the information about them is defined by the Government of the Republic of Kazakhstan.

Article 118. Placement of the Orphans and Children Deprived of Parental Care

1. Orphans and children deprived of parental care shall be placed into the family for upbringing, adoption, under the guardianship or under the contract on placement of the children into the adoptive family and if it is impossible – into the facilities of all types (education, medical and other) for the orphans and children deprived of parental care. While child placing, his/her nationality, religion and culture, native language and possibility to ensure succession in upbringing and education can be taken into account in his/her interests.

2. Before placement of the orphans and children deprived of parental care into the family or facilities specified in the Item 1 of this Article, obligations of
children guardian (trustee) are temporary performed by the authorities performing the guardianship functions at the child’s location.

CHAPTER 16. GUARDIANSHIP OR TRUSTEESHIP METHOD

Article 119. Persons Subject to be Guarded

1. Guardianship is applied to the orphans and children deprived of parental care to maintain, bring up and educate them as well as to protect their property and personal non-property rights and interests.
2. Guardianship is used also to protect property and personal non-property rights and interests of the disabled or partially disabled adults.
3. Guardianship of brothers and sisters from one family is not allowed by different people, except for the cases when these circumstances meet children’s interests.

Article 120. Functions of the State on Guardianship

1. State makes its functions on guardianship with regard to minors and disabled or partially disabled adults through local agencies.
2. Coordination activity and interaction organization of state agencies and organizations on guardianship or trusteeship over minors are carried out by the authority in the field of children rights protection and its territorial subdivisions.
3. Guardianship functions are exercised in the manner prescribed by the Government of the Republic of Kazakhstan.

Article 121. Establishment of Guardianship or Trusteeship

1. Guardianship is performed by the authorities performing the guardianship functions in the place of residence of the person required to be guarded or at the location of the property subject to be guarded. In specific cases, the guardianship can be used in the place of residence of the guardian (trustee).
2. Court shall within three working days after the decision on person declared disabled or partially disabled came into the legal force inform so the authority performing the guardianship functions in the place of residence of such person to guard him/her.
3. Guardianship is performed within one month after the relevant authority has known about necessity to guard the person or the property.
4. Appointment of the guardian or trustee can be judicially appealed by the concerned parties.
Article 122. Guardians and Trustees

1. Guardians (trustees) can be adult persons, except for:
   1) persons declared disabled or partially disabled by the court;
   2) persons deprived of parental rights or restricted in parental rights by the court;
   3) persons suspended from custodian (guardian) obligations for improper discharge of obligations imposed on them by the law;
   4) former adoptive parents, if adoption was recalled by the court due to their fault;
   5) persons who due to the health state cannot perform obligations of the guardian (trustee).

2. Guardian or trustee can be appointed with his/her consent only. Husband (wife), parents, relatives or other people close to the person under guardianship shall have preemptive right to be the guardian or trustee if this does not adverse to the interests of the person under guardianship.

   One guardian or trustee can be appointed for several persons if there are no conflicts between their interests.

3. If guardianship is applied to the minor children whose parents are able and not deprived of parental rights but cannot bring up them, the guardians or trustees are appointed taking into account the wish of parents (parent).

   When appointing a guardian (trustee) for the child, moral and other personal characteristics of the guardian (trustee), his/her duty performance as guardian (trustee), relationships between the guardian (trustee) and child, attitude of family members of the guardian (trustee) to the child are taken into account as well as, if possible, the wish of the child himself/herself.

   If the appointed guardian or trustee of the minor child is married, compulsory consent of the other spouse is required.

4. Guardians and trustees of the persons required to be guarded and who live in the relevant education, medical and social protection facilities are administrations of these facilities.

   Temporary placement of the child into such facility by the guardian (trustee) does not forfeit rights and obligations of the guardian (trustee) toward this child.

5. Guardians and trustees advocate the rights and interests of their persons under guardianship in relationships with other persons, including at the court, without specific accreditation.

CHAPTER 17. LEGAL STATUS OF THE GUARDIANS (TRUSTEES) AND PERSONS UNDER GUARDIANSHIP

Article 123. Rights of the Persons under Guardianship
Persons under guardianship, except for the rights specified in the Articles 60 - 62 and 676 of this Code, also have the rights to:

1) respecting their human dignity;
2) care of guardian (trustee);
3) living together with him/her, except for cases stipulated in the Item 4 of the Article 126 of this Code;
4) alimony, allowances and other social transfers due to them;
5) reservation of property right to housing or right to use the housing;
6) protection against abusive practices of the guardian (trustee);
7) upbringing in the family of guardian (trustee);
8) providing them with conditions of living, upbringing, education and harmonious development;
9) have housing if it is absent under the housing laws of the Republic of Kazakhstan.

Article 124. Rights of the Orphans, Children Deprived of Parental Care and Living in the Education, Medical and Other Facilities

1. The orphans, children deprived of parental care and living in the education, medical and other facilities, except for the rights stipulated in the Articles 60 - 62 and 67 of this Code, also have the rights to:

   1) maintenance, upbringing, education, harmonious development, respecting their human dignity, ensuring their interests;
   2) alimony, allowances and other social transfers due to them;
   3) reservation of property right to housing or right to use the housing, and if no, they have right to get housing under the housing laws of the Republic of Kazakhstan;
   4) job placement performed by the local executive authoritites.

2. The rights of the leavers of these facilitites are protected by the authorities performing the guardianship functions.

Article 125. Obligations Discharged by the Guardians (Trustees)

1. Guardians are the representative of the persons under guardianship by the law and make all the required transactions on their behalf and in their interests.

2. Guardians consent to make such transactions which the persons under guardianship may not make independently, help the persons under guardianship to exercise their rights and obligations as well as protect them against abusive practice of the third parties.

Guardian (trustee) is not obliged to maintain the persons under guardianship at his/her own expense. Person under guardianship is maintained
using salary, alimony and other social transfers of the person under guardianship as well as his/her property.

If means are not enough to maintain the person under guardianship, the authorities performing the guardianship functions settle maintenance allowance.

The order of appointment and the amount of the allowance payment to guardians or trustees on the maintenance of the child-orphan (orphans) and child (children) deprived of parental care is defined by the Government of the Republic of Kazakhstan.

3. Guardians (trustees) shall be concerned about maintenance of their persons under guardianship, care and treatment, protection of their rights and interests. Specified obligations are not imposed on the guardians of the adults declared partially able and minor children declared fully able by the court.

4. If there are no reasons under which the person is declared disabled or partially disabled, the guardian or trustee shall petition the court for declaration of the person under guardianship as able by the court.

Article 126. Rights and Obligations of the Guardian (Trustee) of the Child

1. Guardian (trustee) of the child shall bring up the child under guardianship, care for his/her health, physical, mental, moral and spiritual development.

   Specified obligations are not imposed on the guardians of the adults limited in ability by the court.

   Guardian (trustee) has the right to determine methods to bring up the child under guardianship independently, considering opinion of the child and recommendations of the authority performing the guardianship functions as well as when complying with the requirements stipulated in the Article 72 of this Code.

   Guardian (trustee) has the right to choose education facility and education form for child, considering opinion of the child and shall provide the child with compulsory secondary education.

2. Guardian (trustee) has the right to demand by the court to return the child under guardianship from any persons illegally detained the child, including from close relatives of the child.

3. Guardian (trustee) may not prevent contact of the child with his/her parents and other close relatives, except for the cases when such contact does not meet the child’s interests.

4. Guardians (trustees) of the minor children shall live together with them, except for the cases when they are educated or treated in the education and medical facility. Guardianship is allowed to live separately from the person under guardianship attained sixteen years old upon authorization of the authority performing the guardianship functions if this does not have negative impact on
upbringing and protection of the rights and interests of the person under guardianship.

Guardians (trustees) shall inform the authority performing the guardianship functions on relocation.

5. Guardian shall provide the authority performing the guardianship functions with the reports on health of the person under guardianship, upbringing and his/her property administration no less once per six months.

Article 127. Guardianship of the Able Persons

1. Guardianship can be applied to the adult able person by his/her request, who cannot exercise and protect his/her rights and obligations due to health.

2. Guardian of the adult able person can be appointed by the authority performing the guardianship functions with the consent of such person only.

3. Property of the adult able person under guardianship is administered by the guardian based upon contract of agency or trust property administration concluded with the person under guardianship.

Social or other transactions focused on maintaining and satisfying the household requirements of the person under guardianship are made by the guardian with the consent of the person under guardianship.

4. Guardianship of the adult able person can be ceased by request of this person.

Guardian of the person under guardianship is released from his/her imposed obligations provided in the Article 129 of this Code.

Article 128. Property Administration of the Person under Guardianship

1. Incomes of the person under guardianship, including incomes of the person under guardianship due to his/her property administration, except for incomes, which the person under guardianship may spend by himself/herself, are spent by the guardian or trustee in interest of the person under guardianship only and upon prior permission of the authority performing the guardianship functions.

With no prior permission of the authority performing the guardianship functions, the guardian or trustee has the right to spend means within minimum living wage at the expense of amounts due to the person under guardianship as his/her income required to maintain.

The heads of the organizations for orphans and children deprived of parental care have no right to withdraw from the foster children means bank accounts received from alimony, allowances and other social benefits.

2. Guardian may not make without the prior permission of the authority performing the guardianship functions, and trustee may not consent to make transactions on assignment, including exchange or gift of the property of the
person under guardianship, or conclude on his/her behalf contract of guarantee, its rental (lease), uncompensated use or security, transactions resulting in waiver of the inheritance rights vested in the person under guardianship by the law and will, division his/her property or apportionment of property lot as well as other transactions resulting in decrease in the property of the person under guardianship. The authority performing the guardianship functions shall determine the way to spend means received by the guardian due to the specified transactions.

The procedure to administer property of the person under guardianship is determined by the laws of the Republic of Kazakhstan.

3. Guardian (trustee), his/her spouse and close relatives may not make transactions with the person under guardianship, except for transfer by gift of property to the person under guardianship or in uncompensated use as well as represent the person under guardianship when making transactions or prosecuting between the person under guardianship and husband (wife) of the guardian or trustee and their close relatives.

Debts of the person under guardianship are paid to the guardian (trustee), his/her husband (wife) or relatives, that appeared before appointment of this person as guardian (trustee), upon authorization of the authority performing the guardianship functions.

Article 129. Releasing and Suspending Guardians and Trustees from their Obligations

1. The authority performing the guardianship functions releases the guardian or trustee from their obligations if the minor child under guardianship was returned to his/her parents or adoptive parents.

When placing the person under guardianship into education, medical and social facility or any other facility, the authority performing the guardianship functions releases the previously appointed guardian (trustee) from his/her obligations if it does not conflicts with interests of the person under guardianship.

2. If there are any justifiable reasons (disease, change of property status, misunderstanding with the person under guardianship and others), the guardian or trustee can be released from his/her obligations by his/her request or by the authority performing the guardianship functions.

3. Improper performance of obligations by the guardian or trustee is prohibited, including use of guardianship in sordid motives or leave of the person under guardianship without supervision and required assistance.

In cases stipulated by the Part One of this Item, the authority performing the guardianship functions shall suspend the guardian or trustee from his/her obligations and take necessary measures.
Article 130. Guardianship or Trusteeship Cessation

1. Guardianship for adults is ceased if the court makes decision on declaration of the person under guardianship as able or his/her ability limitation is ceased upon application of the guardian or the authority performing the guardianship functions.

2. When the minor child under guardianship attains fourteen years old, the guardianship ceases towards him/her, and the guardian becomes trustee of the minor child with no such supplementary decision.

3. Minor child guardianship ceases with no special permission after the person under guardianship has attained eighteen years old as well as after marriage and other situations for becoming full legal ability before majority.

Article 131. Appealing Actions of the Guardians and Trustees

Actions of the guardians and trustees can be appealed by any person in the authority performing the guardianship functions or in the court in the place of residence of the person under guardianship in the interests of the latter.

Article 132. Appealing Decisions of the Authorities Performing the Guardianship Functions

Decision of the guardianship authorities on any issues can be judicially appealed by the concerned parties.

CHAPTER 18. FOSTER CARE

Article 133. Foster Care

1. Guardianship in the form of foster care is applied to the minor orphans, children deprived of parental care, including living in education, medical or any other facilities.

2. Reasons for foster care are the contract on child foster care signed between person willing to foster the child and the authority performing the guardianship functions.

3. Provision on foster care is approved by the Government of the Republic of Kazakhstan.

Article 134. Contract on Child Foster Care

1. Contract on child foster care shall provide the conditions of maintenance, upbringing and education for the child, rights and obligations of
fosterers, obligations of the authority performing the guardianship functions to
the fosterers as well as reasons and consequences of terminating such contract.

The child is given to the fosterer for a period stipulated in the mentioned
contract.

Individual contract is drafted for each child under foster care.
If the contract on child foster care expired, the time of child residence in
the family is extended based upon the new contract on child foster care.

2. Manner and amount of salary of the fosterers is specified by the
legislation of the Republic of Kazakhstan.

3. Contract on child foster care can be early terminated:
1) by the fosterers based upon justifiable reasons (disease, change of
marital or material status, misunderstanding with child, conflicts between
children and others);
2) by the authority performing the guardianship functions if there are
adverse conditions for maintenance, upbringing and education of the child;
3) if the child is returned to the parents, given to the relatives or is
adopted.

Article 135. Fosterers

1. Fosterers towards the foster child (children) have the same rights and
obligations as the guardians and trustees. The requirements demanded on them
are specified in the Article 122 of this Code.

2. Fosterers are selected by the authority performing the guardianship
functions pursuant to the rules on requirements to the fosterers approved by the
authorized agency on the rights of the child.

Article 136. Child (Children) Subject to be Placed under Foster Care

1. Pre-selecting the child (children) to give him/her to the fosterers under
foster care according to the contract is performed by the persons willing to admit
to the family as agreed with the authority performing the guardianship functions
and administration of the facility where the child (children) lives.

Separation of brothers and sisters is not allowed, except cases when it
meets their interests and children do not know about their kinship, did not live
and were not brought up together.

2. Child (children) is given to the fosterers, considering his/her opinion.
Child (children) ten aged can be given with his/her consent only.

3. Child (children) given to the fosterers reserves the right to his/her
alimony, pension payments of his/her parents from retirement savings plan,
allowances and other social transfers as well as property right to the housing or
right to use the housing. If there is no the housing, the child (children) given to
the fosterers has the right to get the housing according to the housing law of the Republic of Kazakhstan.

Means and other property of the foster child are preserved by the fosterer during the contract on child foster care is valid.

Child (children) given to the fosterers has the same rights stipulated in the Article 60 – 62 and 67 of this Code.

Article 137. Maintenance of the Child (Children) Given to the Fosterers

1. Means are monthly paid to maintain every child given to the fosterers in the order and amount set by the Government of the Republic of Kazakhstan.

2. The authority performing the guardianship functions shall provide the fosterers with the necessary assistance, help to create adequate conditions for child (children) living and upbringing as well as it shall monitor the obligations of the fosterers on maintenance, upbringing and education of the child (children).

SECTION 5. ALIMENTARY RELATIONSHIPS OF FAMILY MEMBERS

CHAPTER 19. ALIMENTARY OBLIGATIONS OF PARENTS (PARENT) AND CHILDREN

Article 138. Obligations of Parents (Parent) to Support their Minor Children

1. Parents are obliged to support their minor children. The procedure and form of supporting minor children is determined by the parents at their own discretion.

   Parents are entitled to make an agreement on supporting their minor children as well as adult children studying at the system of general secondary education, vocational education, post-secondary education, higher education on an intramural basis (alimony payment agreement).

2. In case the parents do not provide any means to support (alimony) their minor children as well as adult children studying at the system of general secondary education, vocational education, post-secondary education, higher education on an intramural basis aged up to twenty one, these means are recovered in a judicial procedure.

3. If there is no alimony payment agreement between the parents (parent), no support of minor child (children) provided by the parents, and no claim to the court, the authority performing the guardianship functions has a right to make a
claim to the parents to recover alimony payments subject to be paid for their minor child (children).

Article 139. Amount of Alimony Recovered to Support Minor Children in a Judicial Procedure

1. If there is no alimony payment agreement, the alimony to support minor children is recovered from their parents (parent) in a judicial procedure on a monthly basis in the amount: for one child – one-forth, for two children – one-third, for three and more children – half of salary and/or other income of parents (parent).

2. The amount of these shares can be decreased or increased by the court with regard to material and family conditions of the parties and other noteworthy circumstances.

Article 140. Types of Salary and/or Other Income from which Alimony to Support Minor Child (Children) are Deducted

The list of types of salary and/or other income received by parents (parent) and from which alimony payments are deducted shall be established by the Government of the Republic of Kazakhstan.

Article 141. Recovery of Alimony to Support Children in Lump Sum

1. If there is no alimony payment agreement between the parents to support minor children and in cases when recovery of alimony in the shared proportion to the salary and/or other income of parent is impossible, troublesome or significantly violates interests of one of the parties, the court is entitled to define the amount of alimony recovered on a monthly basis in lump sum or both in shares and in lump sum at the same time.

Such cases cover recovery of alimony from parents (parent) with irregular, varying earnings and/or other income or if the parent gets earnings and/or other income fully or partly in kind.

2. Recovery of support to children aged up to twenty one, studying at the system of general secondary education, vocational education, post-secondary education, higher education on an intramural basis is executed when there is no agreement to pay alimony in lump sum.

3. Amount of lump sum is defined by the court based on the monthly reference unit in a particular volume to keep child maintenance level maximally closer to the previous level with regard to material and family conditions of the parties and other noteworthy circumstances.

4. If each parent keeps children, the amount of alimony from one of the parents in favor of the other one, less self-sufficient, is estimated in a lump sum
recovered on a monthly basis and defined by the court according to item 3 of this Article.

Article 142. Recovery and Usage of Alimony to Support Children Deprived of Parental Care

Alimony to support children deprived of parental care are recovered according to articles 138 – 141 of this Code and are paid to the guardian of children or their fosterers.

The sums of alimony payments to support children placed under guardianship or to a fosterer are put on deposit accounts of these children opened in second-tier banks.

Article 143. The Right of Disabled Adult Children for Alimony

1. Ablebodied parents (parent) are obliged to support their disabled adult children requiring help.

2. If there is no alimony payment agreement, the amount of alimony to support disabled adult children is determined by the court in a multiple ratio to the monthly reference in force at the day of alimony payment based on material and family conditions and other noteworthy interests of the parties.

Article 144. Participation of Parents (Parent) in Additional Payments to Support Children

1. If there is no alimony payment agreement and in case of exceptional circumstances (serious illness, injury of minor children or disabled adult helpless children, necessity of payment for external care for them and other circumstances), either parent can be appealed by the court to pay additional costs caused by this circumstances.

2. If the procedure of participation of parents (parent) in bearing additional costs and the amount of these costs is not determined by mutual consent, they are determined by the court based on material and family circumstances of the parents (parent) and children and other noteworthy interests of the parties in a multiple ratio to the monthly reference unit in force on the day of alimony payments to be paid monthly.

3. The court is entitled to bind the parents (parent) to participate both in the actually incurred additional costs and in additional costs to support children subject to be paid in future.

Article 145. Responsibilities of Adult Children to Support Parents (Parent)
1. Ablebodied adult children are obliged to support their disabled helpless parents and take care of them.

2. If there is no alimony payment agreement, the alimony to support disabled helpless parents (parent) are recovered from ablebodied adult children in a judicial procedure.

3. The amount of alimony recovered from each child is determined by the court based on material and family circumstances of the parents (parent) and children and other noteworthy interests of the parties in a multiple ratio to the monthly reference unit at the moment of alimony payment.

4. When determining the amount of alimony the court is entitled to consider all ablebodied adult children of this parent whether the claim was made in respect to all children, one or some of them.

5. Children can be relieved of their responsibilities to support their disabled helpless parents (parent) if the court establishes that parents earlier deviated from their obligations with regard to these children.

   Children are relieved from payment of alimony to their parents deprived of parental rights.

6. Responsibilities of adult adopted children to support adoptive parents are defined in the same manner as responsibilities of children in relation to their parents.

Article 146. Participation of Adult Children in Additional Costs to Support their Parents (Parent)

1. When adult children do not take care of disabled parents and in case of exceptional circumstances (serious illness, injury of parent, necessity to pay for external care for him/her, his/her placement to an institution of social safety net and others), adult children can be appealed be the court to participate in bearing additional costs caused by these circumstances.

2. The procedure of bearing additional costs by each adult children and amount of these payments is determined by court with regard to material and family conditions of the parents (parent) and children and other noteworthy interests of the parties subject to Items 3, 4 and 5 of Article 145 of this Code.

3. The procedure of bearing additional costs and amount of these costs can be defined by agreement of the parties, in case of absence of such an agreement the dispute is solved in a judicial procedure.

CHAPTER 20. ALIMENTARY OBLIGATIONS OF SPOUSES AND FORMER SPOUSES

Article 147. Mutual Support Responsibilities of Spouses
1. Spouses are obliged to support each other materially.
2. In case of refusal to provide such a support and if there is no alimony payment agreement between spouses, the following persons have the right to claim alimony payment in a judicial procedure from the other spouse who have means necessary for this purpose:
   1) a disabled helpless spouse;
   2) a spouse in the period of pregnancy and during three years from the date of birth of mutual children;
   3) a helpless spouse taking care of mutual disabled child until he/she attains a majority, as well as in case when mutual disabled children receives I-II disability group upon attaining a majority.

Article 148. The Right of Former Spouse to Receive Alimony after Marriage Dissolution

1. The following persons have the right to claim alimony payment in a judicial procedure from the other spouse who have means necessary for this purpose:
   1) a former spouse in the period of pregnancy and mutual child attains three years old;
   2) a helpless former spouse taking care of mutual disabled child until he/she attains a majority, as well as in case when mutual disabled children receives I-II disability group upon attaining a majority;
   3) a disabled helpless former spouse became disabled before marriage (matrimony) dissolution.
2. The amount of alimony and procedure of payment thereof after marriage (matrimony) dissolution can be determined by an agreement between former spouses or by the court.

Article 149. Amount of Alimony Recovered for Spouses and Former Spouses in a Judicial Procedure

If there is no alimony payment agreement between the spouses (former spouses), the amount of alimony recovered for the spouse (former spouse) is determined by the court based on material and family conditions of the spouses (former spouses) and other noteworthy interests of the parties in a multiple ratio to the monthly reference unit in force at the day of alimony payment.

Article 150. Release of Spouse from the Responsibility to Support the Other Spouse or Timeline Limitation of this Responsibility

1. The court can release a spouse from the responsibility to support the other disabled helpless spouse or limit this responsibility by a specified period
both during the marriage (matrimony) and after its dissolution in the following cases:

1) if disability of the helpless spouse is a result of alcohol, drugs or psychotropic substances abuse or his/her commitment of intentional crime;
2) shortness (less than five years) of marriage (matrimony);
3) disgraceful family behaviour of the spouse claiming for alimony payment.

2. The responsibility to support former spouse is terminated by the court decision in the following cases:

1) new marriage of a spouse eligible for support;
2) elimination of circumstance stipulated in the Article 148 of this Code.

CHAPTER 21. ALIMENTARY OBLIGATIONS OF OTHER FAMILY MEMBERS

Article 151. Responsibilities of Ablebodied Siblings to Support their Minor as well as Disabled Adult Siblings

If minor helpless siblings fail to get support from their parents (parent), they have a right to get alimony payments from their ablebodied adult siblings who have necessary means for this purpose in a judicial procedure.

Article 152. Responsibilities of Grandparents to Support their Grandchildren

If minor helpless grandchildren fail to get support from their ablebodied parents (parent), adult ablebodied siblings, they have a right to get alimony payments from their ablebodied grandparents who have necessary means for this purpose in a judicial procedure.

Article 153. Responsibility of Grandchildren to Support their Grandparents

If disabled helpless grandparents fail to get support from their adult ablebodied children or from spouse (former spouse), they have a right to get alimony payments from their ablebodied grandchildren who have necessary means for this purpose in a judicial procedure.

Article 154. Responsibility of Foster Children to Support their Actual Fosterers
1. Disabled helpless persons who actually nurtured and supported minor children have a right to claim support from their adult foster children in a judicial procedure if they fail to get support from their adult ablebodied children and grandchildren or from spouses (former spouses).

2. The court is entitled to release foster children from the responsibility to support persons actually nurtured them if the latter supported and nurtured them less than five years as well if they unduly supported and nurtured their foster children.

3. Responsibilities provided for by Item 1 of this Article are not imposed on persons who were under care (guardianship), foster care.

Article 155. Responsibility of Stepchildren to Support their Stepparents

1. Disabled helpless stepparents who nurtured and supported their stepchildren have the right to claim support from their ablebodied adult stepchildren who have necessary means for this in a judicial procedure if they cannot get any support from their adult ablebodied children and grandchildren or from spouses (former spouses).

2. The court is entitled to release stepchildren children from the responsibility to support stepparents if the latter supported and nurtured them less than five years as well if they unduly fulfilled the responsibilities on support and nurturing stepchildren.

Article 156. Amount of Alimony Recovered for Other Family Members in a Judicial Procedure

1. The amount and procedure of alimony payment for persons specified in articles 151 – 155 of this Code can be determined by an agreement between the parties.

2. If there is no alimony payment agreement between the parties, the amount of alimony recovered in a judicial procedure is determined by court in each individual case based on material and family conditions of payer and recipient of alimony other noteworthy interests of the parties in a multiple ratio to the monthly reference unit in force at the day of alimony payment.

3. If several persons are concurrently obliged to support the family member claiming for alimony, the court determines the amount of participation of each of them in performing alimentary responsibilities based on their material and family conditions. When determining the amount of alimony payments, the court has a right to consider all the persons obliged to pay alimony whether the claim was made to all these persons, to one or some of them.

CHAPTER 22. ALIMONY PAYMENT AGREEMENT
Article 157. Conclusion of Alimony Payment Agreement

Alimony payment agreement (amount, conditions and procedure of alimony payment) is concluded between the person obliged to pay alimony and its recipient, and if the person obliged to pay alimony and/or recipient is disabled – between legal representatives of these persons.

Article 158. Alimony Payment Agreement Form

The alimony payment agreement is concluded in written and is subject to be notarized.

Non-compliance with an alimony payment agreement form set by law has consequences provided by norms of Civil Code of the Republic of Kazakhstan.

Article 159. Procedure of Conclusion, Fulfillment, Modification, Termination and Cancellation of Alimony Payment Agreement

1. In relation to conclusion, fulfillment, modification, termination and cancelation of alimony payment agreement there are applied norms of Civil Code of the Republic of Kazakhstan regulating conclusion, fulfillment, modification, termination and cancelation of civil legal deals.

2. Unilateral refusal to implement alimony payment agreement or unilateral modification of its conditions is prohibited.

3. In case of significant change in material or family conditions of the parties and in case of failure to achieve agreement to modify or terminate the alimony payment agreement, the concerned party is entitled to go to the court with a claim to modify or terminate this agreement. When solving a question about modification or termination of alimony payment agreement, the court has a right to consider any noteworthy interest of the parties.

Article 160. Cancellation of Alimony Payment Agreement Violating Interests of Alimony Recipient

If conditions of providing support to minor child or adult disabled child or family member stipulated in the alimony payment agreement significantly violate their interests, particularly when breaching requirements of Item 2 of Article 161 of this Code, such an agreement can be declared invalid in a judicial procedure on application of representative of the minor or adult disabled family member as well as on application of an authority performing the guardianship functions or a prosecutor.
Article 161. Amount of Alimony Paid under Alimony Payment Agreement

1. Amount of alimony to be paid under alimony payment agreement is determined by the parties of this agreement.
   2. The amount of alimony determined under alimony payment agreement for minor children cannot be lower than the amount of alimony which they could get when recovering alimony in a judicial procedure.

Article 162. Methods and Procedure of Alimony Payment under Alimony Payment Agreement

1. Methods and procedure of alimony payment under alimony payment agreement are determined by this agreement.
   2. Alimony can be paid in proportion to the earnings and/or other income of a person obliged to pay alimony, in regularly paid lump sums; in nonrecurrently paid lump sum; through granting property as well as by other methods in relation to which there was achieved an agreement.
   The alimony payment agreement can provide for combination of different methods of alimony payment.

CHAPTER 23. PROCEDURE OF PAYMENTS AND RECOVERY OF ALIMONY IN A JUDICIAL PROCEDURE

Article 163. Recovery of Alimony by Court Decision

If there is no alimony payment agreement, family members listed in Articles 143 – 155 of this Code are entitled to go to the court with a claim to recover alimony.

Article 164. Terms for Alimony Application

1. The person eligible for alimony can go to the court with an application to recover alimony irrespective of the time passed from the moment of creation of a right for alimony if it was not paid earlier under alimony payment agreement.
   2. Alimony payments are adjudged from the moment of production before the court.
   Alimony payments for the passed period can be recovered within three years from the date of production before the court if the court defines that measures to get support were taken before going to the court but alimony
payments were not received due to evasion of payments by the person obliged to pay them.

Article 165. Responsibility of Administrative Official of an Organization to Retain Alimony

The administrative official of an organization at place of employment of the person obliged to pay alimony must, on the basis of administrative documents, monthly deduct alimony payments from his/her salary or other income in favor of a person receiving alimony and pay them or transfer on the account of person obliged to pay alimony within three days from the date of payment of salary or other income.

The responsibility for delay of alimony payment retained from the payer but not transferred to the recipient in time is conferred on the administrative official of the organization.

Article 166. Alimony Deduction on the Basis of Alimony Payment Agreement

Alimony deduction on the basis notarized alimony payment agreement can be executed if the total amount of deductions on the basis of such an agreement and administrative documents do not exceed fifty percent of salary and other income of a person obliged to pay alimony.

Article 167. Responsibility of a Person Obligated to Pay Alimony to Notify about Change of Employment or Place of Residence

1. Administrative official of an organization executed alimony deduction on the basis of court decision or notarized alimony payment agreement is obliged within three days to notify the legal executive at place of alimony recovery decision enforcement and to the alimony recipient about discharge of a person obliged to pay alimony as well as about new employment or place of residence, if this is known to him/her.

2. The person obliged to pay alimony within the period specified by legal executive shall inform the latter and get notification confirmation as well as to the alimony recipient about change of employment or place of residence, and when paying alimony for minor children – about availability of additional earnings or other income as well.

Article 168. Execution upon Property of a Person Obligated to Pay Alimony

1. Recovery of alimony in the amount determined by the alimony payment agreement or court decision as well as recovery of alimony debt is
executed from the earnings and other income of a person obliged to pay alimony; if the salary and other income are insufficient the alimony is deducted from the monetary assets of the person obliged to pay alimony on the bank accounts or in non-bank financial institutions. At insufficiency of these assets, the claim is levied upon any property of the person obliged to pay alimony which can be claimed according to the laws.

2. Levy of execution upon monetary assets on accounts of a person obliged to pay alimony and upon his/her other property is performed in the order provided by legislation of the Republic of Kazakhstan.

Article 169. Determination of Alimony Debt Amount

1. Recovery of alimony for the passed period based on alimony payment agreement or court order is performed within three years preceding submission of the administrative document or notarized alimony payment agreement for recovery.

   If it is impossible to recover alimony from the salary or other incomes within three consecutive months, the recovery is levied upon property of the debtor except for the property upon which the execution cannot be levied under legislation of the Republic of Kazakhstan.

2. In cases when alimony deduction on the basis of court order or notarized agreement was not executed in connection with search for the person obliged to pay alimony, alimony recovery is performed for the whole period irrespective of the term stipulated in item 1 of this Article and attainment of majority by the person subject to be supported by the alimony.

3. The alimony debt amount to be paid for minor children under Article 139 of this Code is determined by a legal executive based on the salary and other income of the person obliged to pay alimony for the period when alimony recovery was not executed. If the person obliged to pay alimony did not work during this period or if the documents confirming his/her earnings and other income have not been submitted, the alimony debt is determined based on the average monthly wages rate in the Republic of Kazakhstan for the moment of debts recovery.

   For persons serving sentence in places of detention, if the debtor did not work during this period, the alimony debt is determined in the amount of one monthly reference unit.

4. In case of disagreement with alimony debt determination by the legal executive, either party can appeal the actions of the legal executive in the order provided by the legislation of the Republic of Kazakhstan.

5. Amounts monthly child allowance determined by legislation of the Republic of Kazakhstan which were paid in the period of searching his/her parents (parent) evading of alimony payment are recovered from these parents (parent) with charge of ten percents from the paid amounts into the budget.
Article 170. Release from Alimony Debt

1. Release from alimony debt or decrease of this debt when paying alimony under agreement between the parties is possible at mutual consent of the parties, except for cases of alimony payment for minor children.

2. The court has the right, upon claim of the person obliged to pay alimony to release him/her from alimony debt fully or partly if it establishes that alimony were not paid because of illness of this person or because of other legitimate reasons, or his/her material and family conditions do not allow to pay alimony debt.

Article 171. Untimely Alimony Payment

1. When debt creation due to the fault of person obliged to pay alimony under alimony payment agreement and/or person obliged to pay alimony by the court decision, the guilty person shall pay to the alimony recipient a penalty in the amount of one tenth percent from the sum of unpaid alimony for each day of delay.

2. The alimony recipient is as well entitled to recover from the person guilty in untimely alimony payment all the losses caused by delay in performance of alimentary obligations in the part not covered by penalty.

Article 172. Inadmissibility of Deduction and Reverse Recovery of Alimony

1. Aliments cannot be deducted by other counter demands.

2. The paid alimony sums cannot be reclaimed back, except for the cases:
   1) provided by the Code of Civil Procedure of the Republic of Kazakhstan.
   2) recognition of the alimony payment agreement to be invalid due to conclusion thereof under the influence of deceit, threatening or violence from the alimony recipient.

3. If the actions listed in the item 2, sub-item 2) of this article are committed by representative of minor child or adult disabled alimony recipient, the reverse recovery of alimony is not performed and sums of paid alimony are recovered from the guilty representative on the claim of the person obliged to pay alimony.

Article 173. Alimony Indexation
Indexation of alimony recovered by the court decision in lump sum is executed by administration of an organization at place of alimony deduction proportionally to the rate of monthly reference unit.

Article 174. Alimony Payment in Case of Departure of a Person Obliged to Pay Alimony out of the Republic of Kazakhstan for Permanent Residence

1. In case of departure of a person obliged to pay alimony out of the Republic of Kazakhstan for permanent residence, he/she has the right to conclude an alimony payment agreement with family members whom he/she is obliged to support under legislation according to Articles 157 – 162 of this Code.

2. In case of failure to achieve an agreement, the concerned party has the right to go to the court claiming for determination of the alimony amount in lump sum or noncurrent alimony payment or for granting particular property on account of alimony or alimony payment otherwise.

3. In case of deficiency of documents confirming alimony payment, the debtor is not allowed to leave for permanent residence outside of the Republic of Kazakhstan.

Article 175. Change of the Alimony Amount Earlier Established by the Court and Release from Alimony Payment

1. If in case of absence of alimony payment agreement there were changed material and family conditions of one of the parties after establishment of alimony amount in a judicial procedure, the court has a right upon application of either party to change the determined alimony amount or to release the person obliged to pay alimony from payment thereof. When changing the alimony amount or when releasing from payment thereof, the court has a right to consider another noteworthy interest of the parties as well.

2. The court is entitled to refuse in recovery of alimonies for an adult ablebodied person if it is established that he/she committed intentional crime in respect to a person obliged to pay alimony or in case of disgraceful family behavior of adult ablebodied person.

Article 176. Termination of Alimentary Obligations

1. Alimentary obligations established by an alimony payment agreement are terminated with the expiration of validity of this agreement or based on conditions provided by this agreement as well as in case of death of one of the parties.

2. Payment of alimony recovered in judicial procedure is terminated:
1) upon attaining by the child of majority or in case minor children attain full ability before the majority age or the age stipulated in the alimony payment agreement;
2) when adopting a child for support of which the alimony were recovered;
3) when court acknowledges vocational rehabilitation or termination of requirement in help by the alimony recipient;
4) when disabled helpless former spouse – alimony recipient is newly married;
5) with death of alimony recipient or a person obliged to pay alimony.

SPECIAL PART

SECTION 6. ACTS OF CIVIL STATUS

CHAPTER 24. GENERAL PROVISIONS

Article 177. Acts of Civil Status Subject to State Registration

Birth, death, marriage (matrimony), marriage (matrimony) dissolution, adoption, establishment of paternity (maternity), change of name, patronymic and surname are subject to obligatory state registration at civil registry offices of territorial justice agency within periods provided by this Code.

State registration of acts of civil status by other governmental and nongovernmental organizations is prohibited and not recognized.

Article 178. Issuance of Primary and Repeated Certificates of Civil State Registration

1. Upon civil state registration the persons with regard to which the register record was done are issued a certificate of civil state registration of standard pattern affixed with signature of the official and official stamp of department issued the document.

In case of loss or invalidity of primary certificate, a repeated certificate of civil registration is issued on the basis of archival register record.

2. Reissued children birth certificates are not issued to the parents who are deprived of parental rights.

Repeated marriage certificates are not issued to the divorced spouses, and the persons whose marriage is invalidated.

3. Certificates of civil state registration are filled out in the State or Russian language.
Information about citizens (parents, spouses, adoptive parents) are filled out according to the documents certifying their identity.

4. In cases provided for by legislation of the Republic of Kazakhstan, certificates of civil state registration can be issued on the basis of notarized power of attorney.

Article 179. Authorities Executing Civil State Registration

1. Civil state registration is executed by civil registry offices of territorial justice agencies.

2. In the regions that have no such agencies, akim of aul (village), settlement, aul (rural) district performs acceptance of documents for registration of acts of civil status (birth, marriage (matrimony), death) of the citizens residing on their territory and submission thereof to justice agencies for civil state registration and entry of information into the State database of individuals in terms provided by this Code as well as issuance and handing over the civil registration certificates.

3. Procedure of civil registration management of aul (village), settlement, aul (rural) district residents is defined by territorial justice agencies upon agreement with local executing agencies, city of the republican meaning.

4. Officials of the registration authorities have no right to make civil registration for themselves, their spouses and close relatives. In such cases, civil registration is made by other official of the registration authority or by another registration authority.

Article 180. Civil State Registration Rules and Procedure

1. Civil state registration rules as well as procedure of mutual notification of espoused about their health and family conditions, explanation of their rights and obligations as of future spouses and parents (parent) are established according to this Code.

2. Procedure of organization of civil state registration, alterations, restoration, cancelling of civil register records is established by justice agencies.

Article 181. Register Books. Procedure and Terms of their Keeping

1. Forms of register books of civil state registration and forms of certificates issued based on records in these register books are established by the Government of the Republic of Kazakhstan.

2. Register books are made in two copies containing one hundred identical register records affixed with signature of the executive officer and official stamp of the department that made it, laced and enumerated in strict sequence. The
identity of the documentary record is provided by officials of the territorial judicial authorities.

The first copies of register books are kept at place of primary civil registration in the archive of district (municipal) justice agency, the second copy – in the archive justice agency of oblast, major city, and capital.

3. Keeping of first and second copies of register books in one room (building) is prohibited.

4. Electronic versions of register records throughout the Republic are kept at the central server of State database of individuals in the authorized agency established by legislation of the Republic of Kazakhstan.

5. Register books at place of primary registration are kept within seventy five years, then they are submitted to the relevant Public Record Office.

6. Register books from second copies at the expiration of the term established are subject to destruction.

Article 182. State Duty

1. For civil state registration there is collected a state duty in accordance with tax legislation of the Republic of Kazakhstan.

2. Registration of birth, death, establishment of paternity, adoption by citizens of the Republic of Kazakhstan as well as issuance of repeated certificates due to mistakes made during civil registration is executed without collection of state duty in accordance with tax legislation of the Republic of Kazakhstan.

Article 183. Procedure of Changing, Amending and Correcting Civil Register Records

1. Introduction of changes, amendments and corrections into civil register records in the availability of primary civil register record as well as sufficient reasons and when there is no dispute between the persons concerned is executed by the civil registry office of territorial justice agency. If there is a dispute between the persons concerned, questions of introduction of changes amendments into civil register records, their correction are solved in a judicial procedure.

2. Applications for introduction of changes, amendments and corrections into civil register records are submitted to civil registry office of territorial justice agency at place of permanent residence of the applicant.

3. Citizens of the Republic of Kazakhstan permanently residing abroad as well as non-residents and stateless persons registered acts of civil status at civil registry offices of territorial justice agency of the Republic of Kazakhstan submit applications through foreign institutions of the Republic of Kazakhstan
to the civil registry office of territorial justice agency at place of keeping of primary record.

4. Introduction of changes, amendments and corrections into the present civil register records is performed by the civil registry office of territorial justice agency at place of record location. The refusal to introduce changes, amendments and corrections into civil register records can be appealed at place of residence of an applicant in a judicial procedure.

Article 184. Restorations of Civil Register Records

1. Applications to restore lost civil register records civil status are submitted to the civil registry office of territorial justice agency at place of residence of the applicant, and citizens of the Republic of Kazakhstan permanently residing abroad as well as foreigners and stateless persons registered acts of civil status at civil registry offices of territorial judicial agency of the Republic of Kazakhstan - through foreigner institutions of the Republic of Kazakhstan to the civil registry office of territorial judicial agency at place of state registration (loss) of primary record.

2. Restoration of civil register records is performed in the availability of documents confirming existence of the relevant record earlier or by the court decision about restoration of register record indicating place and time of state registration.

3. Restoration of civil register records of birth in respect of the persons returned to their historical national homeland is performed in the availability of sufficient grounds and only in the availability of documentary evidence of this fact (statement or notice of absence (loss) of register record) or confirmation made by bodies of internal affairs about legal entrance to the Republic of Kazakhstan of these persons and their petition to admit to citizenship of the Republic of Kazakhstan.

State registration of restored record of birth of oralmans is performed at place of their residence.

4. Loss of civil register records shall be confirmed by the oblast (municipal) civil register record repository at place where the lost record was located.

5. In case of impossibility to restore the lost civil register record by the civil registry office of territorial justice agency, the fact of civil state registration is established in a judicial procedure according to the rules established by Code of Civil Procedure of the Republic of Kazakhstan.

6. State registration of restoration of civil register record is performed by civil registry office of territorial justice agency at place where the lost record was located.

Article 185. Cancellation of Civil Register Records
1. The record of act of civil status can be cancelled:
1) based on court decision;
2) upon application of concerned persons;
3) on the initiative of civil registry office of territorial justice agency that detected primary, restored or repeated record subject to cancellation.

2. Applications for cancellation of civil register records are submitted to the court or to the civil registry office of territorial judicial authority at place of residence of applicant, and citizens of the Republic of Kazakhstan permanently residing abroad as well as foreigners and stateless persons who registered acts of civil status at civil registry offices of territorial judicial agency of the Republic of Kazakhstan shall submit applications through foreigner institutions of the Republic of Kazakhstan to civil registry office of territorial judicial agency at place keeping the record subject to cancellation.

3. Cancellation of civil register records is performed at place keeping the record subject to cancellation.

Article 18.6. Responsibility to Adhere to the State Registration Procedure of Civil Register Record

1. Individuals are obliged to adhere to the state registration procedure of civil register records established by this Code.
2. The responsibility for civil state registration at authorized agencies within the terms stipulated by legislation of the Republic of Kazakhstan is imposed on the citizens.
3. Hiding of circumstances that impede contracting a marriage or presentation of false information at civil registration is prohibited.
4. Registration of marriage (matrimony), dissolution of marriage (matrimony) on the basis of joint application of the spouses, paternity establishment on the basis of joint application of the child’s parents, change of surname, a name, a patronymic through the representative are not allowed.

CHAPTER 25. STATE REGISTRATION OF CHILD BIRTH

Article 187. Basis for Registration of Child Birth

1. The basis for registration of child birth is a medical certificate of birth or the copy of the court decision concerning the fact of child bearing.

In case of childbearing out of medical organization, including at home, the medical certificate of birth is executed in accordance with documents identifying personality of the mother by an employee of the medical organization to which
she addressed after childbearing or by an individual who delivered and engaged in private medical practice.

In case of absence of documents identifying personality of parents (parent) on the date of state registration for valid reasons, the information about parents is entered according to the marriage (matrimony) certificate or register record on conclusion of marriage (matrimony) at the relevant civil registry office of territorial judicial agency. Record about parents in the civil register books, name, patronymic, surname, ethnic origin of parents (parent) is made according to Articles 50, 51, 63 of this Code.

In case of child birth by surrogate mother, the basis for registration is a medical certificate of birth.

2. Medical certificate of child birth shall contain all necessary information about mother of the child (surname, name, patronymic) as well as date of birth and gender of the child, date of issue of the document. The certificate shall be affixed by signature of an official and stamp of the medical organization.

3. State registration of birth of a child by juvenile parents (parent) as well as of a child born by the surrogate mother is performed in a general order.

4. In case of absence of bases for state registration of birth listed in item 1 of this Article, state registration of birth is performed based on court decision concerning the fact of child bearing by this woman.

Article 188. Place of State Registration of Child Birth

1. State registration of child birth is performed by the civil registry offices of territorial judicial agency at place of child birth or at place of residence of parents or one of them. Place of residence of parents (parent) is determined according to their legal address.

2. If parents are not married together, the birth of mutual child can be registered at place of residence of a person recognizing himself as father of the child. Together with application for registration of birth there is submitted an application for establishment of paternity.

3. In the birth register record, a name of place of actual birth in accordance with the name of administrative-territorial unit of the Republic of Kazakhstan accepted at that moment of state registration of birth is indicated as the place of child birth.

4. State registration of child birth born outside of the Republic of Kazakhstan is performed in diplomatic missions and consular offices of the Republic of Kazakhstan or in the civil registry office of territorial justice agency at place of residence of parents or one of them within the periods established by this Code. In case of registration of child birth at place of residence of parents or one of them, this settlement is indicated as the place of birth.

5. State registration of child birth born in expeditions and in remote localities with no civil civil registry offices of territorial justice agency as well in
marine, river, airborne crafts or in a train is performed in the civil civil registry office of territorial justice agency at place of residence parents or one of them upon their return to the place of residence.

In this cases the administrative-territorial unit where the state registration of birth is performed is indicated as the place of child birth.

Article 189. Terms of Submission of Application of Child Birth

The application of child birth shall be submitted by his/her parents or other concerned persons to the civil registry offices within two months from the date of his/her birth, and in case of birth of a dead child the application is submitted by an authorized official of medical organization within five days from the date of childbearing.

State registration of birth upon expiration of two months is performed on the basis of conclusion made by the civil civil registry office of territorial justice authority according to the form established by the Ministry of Justice of the Republic of Kazakhstan.

Article 190. Application of State Registration of Child Birth

The application of state registration of child birth is submitted in written by parents or one of them, and in case of their death, illness or impossibility to submit the application for other reasons – by concerned persons or administration of medical organization where the mother stayed at child birth. The application is enclosed with copies of documents identifying personality of parents (parent) as well as marriage (matrimony) certificates.

In case of registration of child birth with violation of established period are additionally applied: parents’ explanatory, certificate on absence of birth statement at the place of child birth and parents’ residence and child’s health certificate.

If state registration of child birth was applied for not by parents, but other persons, than there shall be submitted a document identifying personality of the applicant and the document confirming his/her authority for registration of child should.

In case of state registration of two or more children, the application is submitted separately for each of them.

Article 191. State Birth Registration of a Child Born after Father’s Death or Marriage (Matrimony) Dissolution or Declaring it to be Invalid

State birth registration of a child conceived in the marriage (matrimony) and born after father’s death or marriage (matrimony) dissolution or declaring it
to be invalid is executed on a common basis if within two hundred and eighty
days from the day of father’s death or marriage (matrimony) dissolution or its
declaring to be invalid.

Article 192. Procedure of Introduction of Information about Parents into
Child Birth Register Record

1. The mother and the father married together are recorded as parents of
the child in a birth register book upon application of either of them. Basis for
such a record shall be a marriage (matrimony) certificate.

2. Persons have given written consent for application of ancillary
reproductive methods and technologies are recorded in the birth register book as
parents of the child if the child was born as a result of application of these
methods.

According to the surrogate maternity agreement the spouses are recorded
in the birth register book as his/her parents in case of child birth.

3. In case of dissolution of marriage (matrimony) or declaring it to be
invalid by the court decision or in case of death of a spouse, but only two
hundred and eighty days passed from the moment of marriage (matrimony)
dissolution or declaring it to be invalid by the court decision or death of a
spouse, information about mother shall be entered based on the documents listed
in Article 187 of this Code, information about father of the child – based on the
marriage or marriage (matrimony) dissolution certificate, certificate of death of
the father.

If the child was born upon expiration of the hundred and eighty days from
the marriage (matrimony) dissolution or declaring it to be invalid, the former
spouse can be recorded as the father of the child only based on the register
record about establishment of paternity.

In case of written acknowledgement by the person who is not the spouse
of the woman given birth to a child and at the written consent of her husband,
this person is recorded as father of the child.

4. If parents of the child are not married together, information about
mother is entered on the basis of documents listed in Article 187 of this Code.

Information about the father in this case is entered:

1) based on register record about establishment of paternity if the
paternity is established and registered alongside with child birth registration;

2) at application of the mother not in marriage (matrimony) if the
paternity is not established.

Surname of child’s father is recorded in the register book according to
surname of the mother, name and patronymic name of child’s father – at her
instruction. The information entered shall not be an obstacle for establishment of
paternity.
At will of the mother, information about child’s father can be not entered into register record;

3) at application of a person acknowledged himself as a father of the child, if at consent of mother of the child.

Information about mother shall be entered on the basis of documents listed in article 187 of this Code, information about father shall be recorded on the instruction of this person.

Later on upon disagreement of the mother with information about child’s father entered into birth register record, the corrections are made in the prescribed manner.

Article 193. Procedure of Ethnic Origin Registration of Child’s Parents

If the applicant wants to specify ethnic nationality of the parents at birth registration, the ethnic nationality of the parents, the citizens of the Republic of Kazakhstan is identified in the child’s birth statement in accordance with the ethnic nationality, specified in identity documents of citizens of the Republic of Kazakhstan.

Information about ethnic nationality of the parent who is the foreigner, is specified in accordance with his/her national passport.

In case of absence of information about the ethnic nationality in the foreigner’s national passport, the ethnic nationality can be defined according to the document issued by the competent authority of a foreign state which citizenship the foreigner is.

Article 194. Procedure of Giving Surname, Name, Patronymic Name to a Child during State Birth Registration

1. At state birth registration surname of the child is defined by surname of the parents. When parents’s surnames are different, the child can be given surname of father or mother by consent of parents. At will of the parents, surname of the child can be derived from name of father or grandfather subject to national traditions. Disagreements as may arise between parents with regard to child’s surname shall be solved in a judicial proceeding.

2. At will of citizens, in writing of surnames and patronymic names of persons of Kazakh origin, there are excluded affixes –ov, -ev, -ova, -eva, -in, -n, -iny, -na, -ovna, -evna, -ovich, -evich unnatural to the Kazakh language, and –uly, kyz shall be used instead in conjoint writing.

It is not allowed to write surnames of Kazakh persons with addition of words “tegy”, “urpagy”, “nemersey”, “shoberesy”, “kelyn” (surname, descendant, grandchild, great grandchild, daughter-in-law respectively) and others.
3. It is allowed to write names of persons of Kazakh origin according to binomial scheme when father’s name replaces surname which shall be obligatory placed first, then name, without patronymic name.

4. Writing of surnames, names and patronymic names of persons of other ethnic origins can be made according to their national features.

Article 195. State Birth Registration of a Child Born Outside of the Republic of Kazakhstan

State birth Registration of a child born outside of the Republic of Kazakhstan is executed in foreign institutions of the Republic of Kazakhstan located on the territory of the country of residence or in pluralistic foreign institutions of the Republic of Kazakhstan.

Article 196. State Birth Registration of a Found, Abandoned (Denied) Child

1. Birth of a found, abandoned (denied) child shall be registered upon application of bodies of internal affairs, authority performing the guardianship functions, administration of education or medical organization where the child has been placed within seven days from the date of finding, denial or abandonment.

   The application shall be enclosed with record or certificate prepared by body of internal affairs or an authority performing the care guardianship functions indicating time, place and circumstances at which the child was found; document issued by medical organization confirming age and gender of the child and other personal data about the child.

   2. In case of denial of the child in medical organization, administration of this organization shall take measures to prepare written application of the mother according to a form established by legislation of the Republic of Kazakhstan.

   3. In case of child abandonment by unknown mother, medical organization administration shall make a record in presence of two witnesses. At birth state registration the records are enclosed to medical organization official’s application about registration of the abandoned (denied) child.

Article 197. State Birth Registration of a Child Born Dead or Died during the First Week of Life

1. State registration of children born dead and children died during the first week is executed in civil registry office of territorial justice agency within five days from the date of child bearing or child death.
2. Birth of dead child is registered on the basis of medical perinatal death certificate issued by medical organization or private practitioner.

Certificate of birth is not issued if a child is born dead. At request of parents (parent) a document confirming the fact of birth of dead born child is issued.

3. In case of death of a child on the first week of life, state registration of birth is executed based on medical certificate of birth, and of death – based on perinatal death certificate.

On the basis of made register records on birth and death, only certificate of death is issued. At request of parents (parent) a document confirming the fact of child birth state registration is issued.

Later on only recurring death certificates are issued.

4. The responsibility for notification of civil registry office of territorial justice agency about birth of a dead child or death of a child on the first week is entrusted to:
   1) head of medical organization where the child died;
   2) head of medical organization a doctor of which established a fact of birth of a dead child, death of a child on the first week of life;
   3) private practitioner in case of childbearing out of medical organization.

Article 198. State Birth Registration of a Child Aged one or more years

1. State birth registration of a child aged one or more years in the presence of standard birth document issued by medical organization or private practitioner is executed upon written request of parents (parent) or other concerned parties.

When child attains majority, his/her state birth registration is executed upon written application of the child.

The application should be enclosed with medical certificate of birth, notice about absence of register record of civil registry office of territorial judicial agency of relevant administrative-territorial entity, certificates of health, identification documents, marriage (matrimony) certificate of parents, identification document of the applicant.

2. State birth registration of a child aged one or more years is executed on the basis of conclusion of civil registry office of territorial justice agency approved by territorial justice agency.

Article 199. State Birth registration of Child of Nonresidents

State birth registration of a child of nonresidents permanently or temporarily living in the Republic of Kazakhstan is executed in diplomatic missions or consular offices of relevant foreign states located on the territory of
the Republic of Kazakhstan, or in pluralistic foreign institutions, if there is no such in the Republic of Kazakhstan.

State birth registration of a child of nonresidents is performed at their will in civil registry offices of territorial judicial agency at their permanent or temporarily residence without entering data thereof into State database of individual persons and assignment of personal identification number to the child.

Article 200. Ceremonial Child Birth State Registration

At parents’ will civil registry office of territorial judicial agency conducts ceremonial child state registration in its location or in public marriage palace.

Article 201. Information Entered into Child Birth Register Book

The following data are entered into child birth register record:
1) date of child birth state registration;
2) personal identification number assigned to the child;
3) number of child birth register record;
4) surname, name, patronymic name, date, gender, date and place of birth of the child;
5) number of children born (one, twins or more children);
6) note about live birth or birth of a dead child;
7) information about document confirming fact of child birth;
8) legal address of the child;
9) names, patronymic names, surnames, dates of birth, age, permanent place of residence, legal address, citizenship, source of income or place of work, education of parents (parent) and, at will of parents (parent), their ethnic origin;
10) information about document on the basis of which the data about child’s father were entered;
11) information about applicant;
12) series and number of the birth certificate issued.

Article 202. Issuance of Child Birth State Registration Certificate

On the basis of register record about child birth state registration, a standard certificate of birth is issued.

The birth certificate is issued to the parents of newborn, other authorized persons or representatives of the organization, which cares the child.

In case of two or more children birth, the birth certificate is issued for each of them.

Article 203. Certificate of Birth
Certificate of birth contains the following information:
1) surname, name, patronymic name, date and place of birth of the child;
2) date of execution and number of register record;
3) personal identification number;
4) surnames, names, patronymic names, ethnic origin of parents (parent);
5) citizenship of parents (parent);
6) place of state registration (name of civil registration office of territorial justice agency);
7) date of issue of birth certificate.

CHAPTER 26. STATE REGISTRATION OF PATERNITY ESTABLISHMENT

Article 204. Reasons for State Registration of Paternity Establishment

1. State registration of paternity establishment is effected in bureau of civil registration of the territorial justice agency on the basis of:
   1) joint application of the child’s parents for paternity establishment;
   2) application of the child’s father if the mother is dead, declared dead; found incapable due to mental illness or deficiency; restricted in or deprived of parental rights or the place of her residence cannot be established;
   3) court decision on paternity establishment, on establishment of paternity acknowledgement fact and paternity fact.

2. It is prohibited to effect paternity establishment based on the application of the person judicially found incapable due to mental illness or deficiency or application of the guardian of the disabled person.

Article 205. Place of State Registration of Paternity Establishment

State registration of paternity establishment is carried out in bureau of civil registration of the territorial justice agency at the residence of the child’s father or mother or in place of court decision on paternity establishment, on establishment of paternity acknowledgement fact and paternity fact.

In case of mother’s death, her incapability, and impossibility of mother’s location establishment or in case of deprivation of paternal rights, the place of registration of paternity establishment is the child’s location.

Article 206. State Registration of Paternity Establishment on the Basis of Joint Application of the Child’s Parents

1. Joint application of the child’s parents for paternity establishment shall
be submitted to bureau of civil registration of the territorial justice agency in the place of child’s birth or in the place of residence of one of the parents. If it is impossible to submit joint application, the child’s father and mother can submit separate applications to territorial justice agency.

2. If one of the parents cannot, by legitimate excuse, come to bureau of civil registration of the territorial justice agency for state registration of paternity establishment, his/her signature on the application must be notarized.

3. If it is impossible or difficult for parents to submit joint application for paternity establishment after the child’s birth, they are allowed to submit joint or separate application to bureau of civil registration of the territorial justice agency for state registration in the place of residence before the child’s birth during pregnancy, confirmed by a medical certificate. The record about child’s parents is made after a child’s birth.

   In this case the application can be withdrawn by the child’s parents at any time before state registration of paternity establishment is effected.

4. Alongside with the application for paternity establishment the parents shall submit identification documents and the child’s birth certificate. If the application is submitted before the child’s birth, the package of documents will include medical certificate of pregnancy, issued by medical organization or private practitioner.

   If state registration of paternity establishment is effected together with state registration of birth, it is not necessary to submit birth certificate.

5. Paternity establishment is carried out by bureau of civil registration of the territorial justice agency in the presence of both parents on the day of the application submission apart from the cases listed in Items 2 and 3 of the present Article.

Article 207. Designation of a Surname and Patronymic to a Child on the Basis of a Joint Application for Paternity Establishment

1. If the parents submit joint application for paternity establishment, the child’s surname is designated by their agreement or judicially, if there is no such.

   The child’s designated surname must be named in the application for paternity establishment.

2. The child’s patronymic is designated in accordance with the father's name. The same order is applied to the child of full age if there are no objections from his part.

   If the child’s patronymic in the birth statement document (named by the mother) does not coincide with the name of the person proved the father, bureau of civil registration of the territorial justice agency has no right to refuse state registration of paternity establishment.

3. If the child’s parents contracted a marriage after the child’s birth, it is
prohibited to introduce information about the child’s father into the birth statement document without state registration of paternity establishment.

Article 208. State Registration of Paternity Establishment upon the Application of the Person Admitting Paternity

1. State registration of paternity establishment upon written application of the person admitting paternity in manner of this Code is effected.
2. Besides the application, the person admitting paternity shall submit identification documents and documents confirming the absence of mother: certificate of death, court decision about her incapability due to mental illness or deficiency, documents stating that she was announced dead, restricted in or deprived of parental rights, document on impossibility to establish her place of residence.

Article 209. Designation of a Surname and Patronymic to a Child under State Registration of Paternity Establishment on the Basis of an Application of the Person Admitting Paternity

1. The child's surname is designated on the basis of the application by the person admitting paternity with the consent of the agency on tutorship and curatorship.
2. The child's patronymic is changed in accordance with the father's name. The same order is applied to the child of full age if there are no objections from his part.

Article 210. State Registration of Paternity Establishment on the Basis of the Court Decision on Paternity Establishment, Paternity Acknowledgement Fact and Paternity Fact

1. State registration of paternity is effected on the basis of the application from the mother, father, or guardian (curator) of the child on the basis of court decision on paternity establishment, establishment of paternity fact and paternity acknowledgement fact.
2. The copy of the court decision in force, identification documents of the applicant and birth certificate of the child are to be enclosed to the application.
3. The court which made the decision on paternity establishment, establishment of paternity fact and paternity acknowledgement fact, must send the copy of this decision within three days after it comes in force to the bureau of civil registration of the territorial justice agency in the place of court decision.

Article 211. Designation of a Surname and a Patronymic to a Child under State Registration of Paternity Establishment upon Court
Decision

1. When effecting state registration of paternity establishment upon court decision the information about the father is named in accordance with the court decision.

   The place of permanent residence of the father and his place of employment can be recorded in accordance with the words of the applicant if this information is not named in the court decision.

   If the court decision contains no information about the father's nationality, the column about nationality in the document on paternity establishment is filled in accordance with his identification document.

2. Designation of a surname to a child is effected in accordance with court decision. If the court decision contains no such information, it is effected by order of the applicant. In case of the controversy, the surname is designated upon court decision.

Article 212. Simultaneous State Registration of the Child's Birth and Paternity Establishment

When effecting simultaneous state registration of the child's birth and paternity establishment, it is obligatory to take formal note of birth statement and paternity establishment. In birth statement document the surname of the child is designated in accordance with the mother's surname; patronymic and information about the father - upon the application of the father or joint application.

Article 213. The Order of State Registration of Paternity Establishment in Respect of the Child of Full Age

State registration of paternity establishment in respect of the persons of full age is possible only upon their written consent. If the person is found incapable, it can be effected upon the consent of his/her guardian or agency on tutorship and curatorship.

The consent of the person of full age must be expressed in a separate application or in his/her signature under joint application of the parents. When submitting the application the person of full age or his/her guardian announces the will to bear the surname of the father or retain the surname of the mother.

Article 214. Application for Paternity Establishment

The application for paternity establishment is submitted in written form by the parents or one parent. If it is impossible due to their death, illness or other reasons it is submitted by the authorized person in the order established by the
legislation of the Republic of Kazakhstan.

If the application for state registration of paternity establishment is submitted by the authorized person, he/she must present identification documents.

Article 215. Amendatory Procedure under State Registration of Paternity Establishment

1. When effecting state registration of paternity establishment, certain amendments will be introduced into birth statement document on the basis of the record about paternity establishment.
   The surname and patronymic of the child and information about the father are recorded in accordance with Articles 207, 209 and 211 of the present Code.
2. After introduction of certain amendments into birth statement document the applicant (applicants) are given new certificate of the child's birth.

Article 216. Acknowledgement of Paternity Established beyond the Borders of the Republic of Kazakhstan.

Paternity recorded by the agencies of the Republic of Kazakhstan abroad is acknowledged if one of the parents has the citizenship of the Republic of Kazakhstan.

Article 217. Information Recorded in the Register of Paternity Establishment

Paternity establishment statement includes the following information:
1) date of state registration of the child's birth;
2) number of the child's birth statement;
3) surname, name and patronymic of the child before and after paternity establishment;
4) time and place of the child's birth;
5) name, patronymic and surname of the child's parents, date of birth, permanent place of residence, legal address, citizenship, source of income, place of employment and nationality (optionally);
6) information about the document used as a basis for state registration of paternity establishment;
7) information about the applicant;
8) serial number of the issued certificate.

Article 218. Issue of a Certificate on State Registration of Paternity Establishment
On the basis of the statement on state registration of paternity establishment bureau of civil registration of the territorial justice agency issues the certificate of paternity establishment.

The paternity establishment certificate shall be issued at the place of state registration of one of the parents or can be given to each of them at their will.

**Article 219. Certificate of Paternity Establishment**

Paternity establishment certificate includes the following information:
1) surname, name and patronymic of the child's father;
2) surname, name, patronymic and date of birth of the child;
3) surname, name and patronymic of the child's mother;
4) date of drawing up and number of the statement;
5) place of state registration and name of bureau of civil registration of the territorial justice agency;
6) date of issuing of paternity establishment certificate.

**CHAPTER 27. STATE REGISTRATION OF MARRIAGE (MATRIMONY)**

**Article 220. Reasons for State Registration of Marriage (Matrimony)**

State registration of marriage (matrimony) is effected by bureau of civil registration of the territorial justice agency on the basis of joint written application for marriage in accordance with the form established by the Ministry of Justice of the Republic of Kazakhstan.

**Article 221. Place of State Registration of Marriage (Matrimony)**

State registration of marriage (matrimony) is effected in any bureau of civil registration of the territorial justice agency in the territory of the Republic of Kazakhstan at will of the parties to the marriage.

**Article 222. Terms of Application for Marriage and State Registration of Marriage (Matrimony)**

1. Application for marriage must be submitted to bureau of civil registration of the territorial justice agency one month before the state registration of marriage (matrimony).
2. State registration of marriage (matrimony) is effected by bureau of civil registration of the territorial justice agency one month after submission of joint application for marriage.
The term begins on the next day after submission of application and ends on the corresponding date of the next month. If this date is a red-letter day, the date of the term ending is considered to be the next working day.

The time of state registration of marriage (matrimony) is appointed by bureau of civil registration of the territorial justice agency in coordination with the persons intending to marry. The time of state registration of marriage must be appointed in such a way that it was not simultaneous with state registration of death and divorce in one and the same premises.

3. If it is impossible or difficult (distance of residence from each other, serious illness, military service, etc.) for persons to enter into marriage (matrimony) the presence at the registration agency when applying for a marriage (matrimony), the application of marriage (matrimony) conclusion filled in the established form and signed by both parties entering into a marriage (matrimony) can be submitted by one of them.

The signature of the absent person can be certified and affixed by the signature of the official and official stamp of the registration agency at the location of the citizen, by the notary officer or other official who has the right to make notarial actions in accordance with the law of the Republic of Kazakhstan, and also in the following order:

1) military men – commander of the relevant military unit;
2) citizens of the Republic of Kazakhstan are on the voyage on the ship or inland ship flying the National flag of the Republic of Kazakhstan – captains of these vessels;
3) persons on the expeditions – heads of these expeditions;
4) persons in stationary medical organizations – head doctors of these organizations;
5) persons in institutions executing punishment in the form of arrest, restraint of liberty, deprivation of liberty – chiefs of corresponding institutions.

Article 223. Reduction and Prolongation of a Term of State Registration of Marriage (Matrimony)

1. In accordance with joint application of the persons intending to marry in case of the reasonable excuse (pregnancy, birth of a child, instant danger to life of one of the parties or other circumstances) proved by certain documents (certificate on pregnancy issued by medical-qualification commission, certificate of health, certificates confirming other exceptional circumstances), bureau of civil registration of the territorial justice agency in the place of state registration of marriage (matrimony) will either allow marriage prior to the expiration of one month or prolong the term for no more than a month.

The time of the term’s reduction is determined in every particular case depending on the circumstances.

2. In some cases waiting period of state registration can be prolonged on
the initiative of bureau of civil registration of the territorial justice agency if there are circumstances impeding state registration of marriage. Before marriage (matrimony) registration the executive officer must suspend registration and ask the applicant to submit documentary evidence within the required period which cannot exceed one month.

Bureau of civil registration of the territorial justice agency will effect all necessary checks by request of the parties involved or on its own initiative. The persons applied for marriage will be informed about the delay of state registration of marriage (matrimony). If there are legal bars for marriage, bureau of civil registration of the territorial justice agency refuses state registration of marriage.

If information about such impediments is not confirmed, state registration of marriage (matrimony) will be effected in accordance with the established procedure. The check of the named circumstances must be completed within a month’s period.

Permission for reduction or prolongation of the month’s term is issued in the form of the resolution on the application for marriage by the head of the bureau of civil registration of the territorial justice agency or, in case of his absence, by his deputy.

If the persons intending to marry cannot, by legitimate excuse, come to bureau of civil registration of the territorial justice agency on the named day, the date of state registration of marriage (matrimony) will be postponed at their request.

Article 224. Application for Marriage

1. Application for marriage must be compiled in written form. If there is no standard pattern of application form, all the required information must be presented in the application body in the optional form.

To all the questions, submitted in the form of application, full and exact answers must be given.

2. When submitting an application for marriage it is necessary to present the following documents:

1) identity card or passport for the citizen of the Republic of Kazakhstan domiciling in the Republic of Kazakhstan or sojourning abroad; passport of the citizen of the Republic of Kazakhstan with a mark of the consular office abroad about registration as a citizen of the Republic of Kazakhstan domiciling abroad for the citizen of the Republic of Kazakhstan domiciling abroad; residence permit of the foreign citizen in the Republic of Kazakhstan for a foreign citizen domiciling in the Republic of Kazakhstan. A foreign citizen sojourning in the Republic of Kazakhstan will submit the document issued by the agency of internal affairs of the Republic of Kazakhstan permitting sojourning in the Republic of Kazakhstan. A stateless person residing in the Republic of
Kazakhstan will submit identity card of a stateless person with a mark of the agency of internal affairs of the Republic of Kazakhstan on registration in the place of residence. A stateless person sojourning in the Republic of Kazakhstan will submit identity card issued by the competent bodies of the country of residence and registered in accordance with the established procedure by the agency of internal affairs of the Republic of Kazakhstan.

A foreign citizen shall submit, alongside with the passport (identification document), a notarized translation of this document into national or Russian language.

Accuracy of translation of identification documents of the stateless person can be verified in diplomatic mission or consular office or foreign policy office of the state a foreign person has the citizenship of or a stateless person domiciles in.

2) documents proving the necessity to reduce marriage age specified in Article 10 of the present Code;
3) information about previous marriages;
4) information about children;
5) the note on awareness about health status and material standing of the persons intending to marry and absence of impediments to marriage.

Article 225. The Order of Surname Registration under State Registration of Marriage (Matrimony)

1. When effecting state registration of marriage (matrimony), the party to the marriage willing to change his/her premarital surname to the surname of the other party to the marriage, will get a new surname in the marriage statement document.

2. If the party to the marriage is willing to retain his/her premarital surname, the surname will not be changed in the marriage statement document.

3. If the party to the marriage is willing to have a double surname in the marriage statement document, the second surname will be added to the premarital surname and these will be separated by a hyphen.

4. The surname chosen by the parties to the marriage is named in the joint written application for marriage.

Article 226. The Order of State Registration of Marriage (Matrimony)

1. State registration of marriage (matrimony) is effected in bureau of civil registration of the territorial justice agency in accordance with this Code.

2. If the persons (person) intending to marry cannot come to bureau of civil registration of the territorial justice agency due to serious illness or other legitimate excuse, state registration of marriage is effected at home, in medical
or other organization in the presence of the persons intending to marry.

3. Executive officer of bureau of civil registration of the territorial justice agency will:
   1) announce applications for marriage;
   2) explain the persons intending to marry their rights and obligations;
   3) ascertain consent of the persons intending to marry and the surname chosen;
   4) ascertain the absence of impediments to marriage;
   5) on behalf of the state issue marriage (matrimony) certificate of a standard pattern.

4. If there are no impediments to marriage, the fact of marriage is recorded in civil register, signed by the spouses and countersigned by the executive officer with an official stamp of bureau of civil registration of the territorial justice agency.

5. Bureau of civil registration of the territorial justice agency refuses state registration of marriage (matrimony) if there is evidence of the circumstances impeding marriage.

6. The refusal of state registration of marriage by bureau of civil registration of the territorial justice agency can be appealed judicially.

Article 227. State Registration of Marriage (Matrimony) in Solemn Surroundings

At will of the persons intending to marry, state registration of marriage can be effected in solemn surroundings in the premises of bureau of civil registration of the territorial justice agency or in public marriage palace.

Article 228. State Registration of Marriage of the Citizens of the Republic of Kazakhstan with Foreign Citizens and Stateless Persons

1. State registration of marriage (matrimony) of the citizens of the Republic of Kazakhstan with foreign citizens and stateless persons is effected in bureau of civil registration of the territorial justice agency of the Republic of Kazakhstan on a common basis in accordance with the legislation of the Republic of Kazakhstan or in diplomatic mission or consular office of the state a person willing to marry has the citizenship of.

2. If it is required by the legislation of the foreign state, a foreign citizen must submit, together with the application for marriage, a license for contracting a marriage with a foreign citizen issued by the competent body of the state a person intending to marry has the citizenship of.

   If there is no such license, the personnel of bureau of civil registration of the territorial justice agency must explain the persons intending to marry,
primarily the citizen of the Republic of Kazakhstan that their marriage (matrimony) can be found invalid in the country the other person intending to marry has the citizenship of.

If, despite of the explanation, the applicants insist on state registration of marriage (matrimony), this marriage (matrimony) will be registered.

State registration of marriage (matrimony) of the citizens of the Republic of Kazakhstan with repatriates is effected on a common basis in accordance with the legislation of the Republic of Kazakhstan.

3. Conditions of concluding marriage (matrimony) by a stateless person in the territory of the Republic of Kazakhstan are specified by the legislation of the Republic of Kazakhstan if the person holds permanent residence in this territory.

**Article 229. State Registration of Marriage (Matrimony) in Foreign Agencies of the Republic of Kazakhstan, Diplomatic Mission Offices and Foreign Agencies of Foreign States**

1. Marriage (matrimony) between citizens of the Republic of Kazakhstan residing abroad is concluded in foreign agencies of the Republic of Kazakhstan.

2. Marriage (matrimony) concluded between foreign citizens in the territory of the Republic of Kazakhstan in diplomatic mission or consular offices of foreign states is considered to be valid in the territory of the Republic of Kazakhstan.

**Article 230. Recognition of Marriage Contracted beyond the Republic of Kazakhstan as Existing**

1. Marriage contracted between the citizens of the Republic of Kazakhstan and between the citizens of the Republic of Kazakhstan and foreign citizens or stateless persons abroad in compliance of the legislation of this state is considered to be valid in the Republic of Kazakhstan except the cases specified in Articles 10 and 11 of the present Code.

2. Marriage contracted between foreign citizens abroad in compliance of the legislation of this state, is considered to be valid in the Republic of Kazakhstan.

**Article 231. Invalidity of Marriage (Matrimony) Contracted in the Republic of Kazakhstan or Abroad**

Invalidity of marriage (matrimony) contracted in the Republic of Kazakhstan or abroad is determined by the legislation of the Republic of Kazakhstan which was used for conclusion of marriage.

**Article 232. The Order of Issuing Certificates about Marriageability**
1. The certificate about marriageability of the form set by the Ministry of Justice of the Republic of Kazakhstan is issued to the citizens who are domiciling or used to domicile in the territory of the Republic of Kazakhstan for state registration of marriage beyond the borders of the Republic of Kazakhstan.

2. The certificate about marriageability is issued by bureau of civil registration of the territorial justice agency of the oblast, city of the republican meaning or capital on the basis of the record checking of bureau of civil registration of the territorial justice agency on the day of application.

Checking of the record on state registration of marriage (matrimony) is effected beginning with sixteen years old if the person was domiciling in one administrative-territorial entity before leaving the Republic of Kazakhstan. Otherwise the certificate is issued from the moment of settlement in this territory.

3. In order to get the certificate the applicant shall submit the following documents:
   1) identification document;
   2) certificate of divorce or certificate of death of the spouse if the applicant was married.

Article 233. State Registration of Marriage (Matrimony) with the Detained or Convicted Person or a Person Serving a Sentence in Criminal-Executive Institutions

1. State registration of marriage (matrimony) with the detained person or a person serving a sentence in places of detention (criminal-executive institutions) is effected by bureau of civil registration of the territorial justice agency in the premises of the institution in accordance with the conditions stipulated by the present Code.

2. State registration of marriage (matrimony) with the convicted person is effected in the presence of the persons intending to marry in the premises defined by the administration of the criminal-executive institution in coordination with bureau of civil registration of the territorial justice agency.

   State registration of marriage with the persons who, according to the judicial restraint, was held in prior detention, is effected by bureau of civil registration of the territorial justice agency in the premises of detention facilities after giving notice to the person or organ processing the case.

Article 234. Marriage (Matrimony) Statement Content

1. Marriage statement document includes:
   1) surname (before and after marriage (matrimony), name, patronymic, date and place of birth, age, citizenship, nationality, if it is mentioned in the
identification document, source of income or place of employment, place of
residence or judicial address, education and marital status of every person
intending to marry;
2) information about mutual children;
3) requisites of identity documents of every person intending to marry;
4) date and number of marriage (matrimony) statement;
5) number of the issued certificate.
2. If the marriage was dissolved or found invalid, necessary information is
introduced into marriage (matrimony) statement. This information is introduced
on the basis of the court decision on dissolution or invalidation of the marriage
(matrimony) or on the basis of divorce statement in bureau of civil registration
of the territorial justice agency upon application of both parties to the marriage.

Article 235. Suspension of Marriage (Matrimony) Statement

If there is an application stating that there are impediments to state
registration of marriage (matrimony), executive officer must suspend marriage
statement and ask the applicant to present documentary evidence in the required
time. The term of suspension must not exceed one month.

Article 236. Presentation of the Marriage (Matrimony) Certificate to the
Spouses

On the day of state registration of marriage the spouses are given marriage
(matrimony) certificate. If it is necessary, every spouse can be given marriage
(matrimony) certificate.

Article 237. Marriage (Matrimony) Certificate

Marriage (matrimony) certificate includes the following information:
1) premarital surname, name, patronymic, date and place of birth,
citizenship and nationality (if it was mentioned in the identification document)
of every person intending to marry;
2) date of marriage;
3) date and number of marriage statement;
4) information about the choice of the surname;
5) place of state registration of marriage (matrimony) – name of bureau of
civil registration of the territorial justice agency;
6) date of issuing marriage (matrimony) certificate;
7) serial number of the issued marriage (matrimony) certificate.

CHAPTER 28. STATE REGISTRATION OF DISSOLUTION OF A
MARRIAGE (MATRIMONY)

Article 238. Reasons for State Registration of Dissolution of a Marriage (Matrimony)

1. Reasons for state registration of a marriage (matrimony) are joint application of the spouses about dissolution of a marriage (matrimony), application of one of the spouses having a right for divorce in accordance with established procedure and a final decree on dissolution of a marriage.

2. State registration of dissolution of a marriage (matrimony) in bureau of civil registration of the territorial justice agency is effected on the basis of mutual agreement for dissolution of a marriage (matrimony) of the spouses having no mutual underage children and property and other claims.

3. If the spouses have underage children, state registration of dissolution of a marriage (matrimony) is effected on the basis of a court decision on dissolution of a marriage (matrimony).

4. Regardless of the fact whether the spouses have common underage children or not, the marriage can be dissolved by the Civil registration office on the petition for a decree of dissolution of the marriage presented by either of the spouses on the following grounds:
   1) effective adjudication of disappearance of one of the spouses;
   2) effective judicial decision on recognition of one of the spouses to lack dispositive legal capacity;
   3) one of the spouses is convicted of a crime and sentenced to confinement for a period greater than or equal to 3 years.

Article 239. Place of State Registration of Marriage (Matrimony) Dissolution

1. State registration of marriage (matrimony) dissolution on the ground of the joint petition of the spouses is effected in Bureau of civil registration of the territorial justice agency at the residence of the spouses or either of them.

2. In case of state registration of marriage (matrimony) dissolution under item 4 of Article 238 the petition for a decree of dissolution of a marriage is to be presented to Bureau of civil registration of the territorial justice agency at the residence of the other spouse.

3. In case of state registration of marriage (matrimony) dissolution under the judicial decree of dissolution of a marriage (matrimony), state registration is effected by Bureau of civil registration of the territorial justice agency at the residence of the divorced spouses.

4. Dissolution of a marriage (matrimony), with a national of the Republic of Kazakhstan as a spouse, under an effective decree of dissolution of a marriage issued in a foreign state is to be registered in Bureau of civil registration of the
Article 240. Period of State Registration of Marriage (Matrimony)
Dissolution on the reason of the Joint Petition of the Parties to a Marriage

State registration of marriage (matrimony) dissolution is effected in Bureau of civil registration of the territorial justice agency in the personal presence of the divorcing individuals upon the expiry of one month after filing of the joint petition for a decree of dissolution of a marriage (matrimony).
Running of the time period begins on the day after filing of the petition and expires on the respective date next month. If the date falls on a non-workday the workday next to it is deemed the expiry date.
One-month period cannot be reduced.
If the spouses are not in a position to come to Bureau of civil registration of the territorial justice agency to attend state registration of marriage (matrimony) dissolution on a fixed date, they can repeat the petition for a decree of dissolution of a marriage (matrimony) to Bureau of civil registration of the territorial justice agency. Bureau of civil registration of the territorial justice agency will appoint another one-month period for state registration of marriage (matrimony) dissolution.

Article 241. Petition for State Registration of Dissolution of a Marriage (Matrimony)

1. The following standard petitions for a decree of dissolution of a marriage are approved by the Ministry of Justice of the Republic of Kazakhstan: petitions for a decree of dissolution of a marriage on mutual consent of both spouses, who have no common underage children; petition for state registration of marriage dissolution under the judicial decree of dissolution of a marriage; petition for state registration of marriage dissolution on the ground of the effective adjudication of disappearance of one of the spouses; petition for state registration of marriage dissolution on the ground of the effective judicial decision on recognition of one of the spouses to lack dispositive legal capacity; petition for state registration of marriage dissolution on the ground of the judicial sentence about confinement for a period greater than or equal to 3 years.

2. Petition for a decree of dissolution of a marriage on the grounds provisioned in Article 238, items 2 and 4 of the present Code must enclose marriage (matrimony) certificate.

If the spouses do not have this certificate and the marriage statement was lost by Bureau of civil registration of the territorial justice agency, it is necessary to retrieve the marriage (matrimony) statement.
The petitioner must present the following documents:
1) identification documents of the divorcing individuals;
2) grounds for state registration of dissolution of a marriage (matrimony) provisioned in Article 238, item 4;
3) conclusion of the authority performing the guardianship functions on appointment of the curator for the property of the disabled or missing spouse.
4) state fee payment note.
3. The divorced spouses (each of them) or the curator of the disabled spouse can authorize other individuals with a notarized letter of attorney to file a petition for the decree of dissolution of a marriage (matrimony).
4. If one of the spouses is not in a position to attend state registration of dissolution of the marriage (matrimony) in Bureau of civil registration of the territorial justice agency they will be issued a letter of attorney for representation of the party’s interests according to the Civil Code of the Republic of Kazakhstan.

Article 242. State Registration of Dissolution of a Marriage (Matrimony) with a Party to a Marriage Recognized as Missing, Disabled or Sentenced to a Long Term of Deprivation

In case of state registration of dissolution of a marriage (matrimony) with a spouse recognized as missing, disabled or sentenced to a term of deprivation greater than or equal to three years, Bureau of civil registration of the territorial justice agency must notify the confined spouse or the curator of the disabled spouse or the curator of the property of the missing spouse of the petition within a week after its filing. Bureau shall also set a forty-five-days term starting with the date of the petition filing within which the parties are entitled to inform Bureau in writing of the disputes concerning the petition for dissolution of the marriage (matrimony).

Article 243. Preservation or Changing of the Married Name after Dissolution of a Marriage (Matrimony)

The spouse who changed his or her surname upon marriage is entitled to preserve his / her married name after dissolution of the marriage or at his / her will he / she can be assigned his / her premarital name upon the state registration of dissolution of the marriage.

Article 244. State Registration of Dissolution of Marriage (Matrimony) with a Foreign National or a Stateless Person

1. Dissolution of a marriage (matrimony) between a national of the Republic of Kazakhstan and a foreign national or a marriage between a national
of the Republic of Kazakhstan and a stateless person is effected according to the legislation of the Republic of Kazakhstan.

2. National of the Republic of Kazakhstan non-resident of the Republic of Kazakhstan is entitled to dissolve a marriage with a spouse non-resident of the Republic of Kazakhstan regardless of his or her legal nationality in the Court of the Republic of Kazakhstan. In case the legislation of the Republic of Kazakhstan allows dissolution of a marriage in Bureau of civil registration of the territorial justice agency, the marriage can be dissolved in the foreign agencies of the Republic of Kazakhstan.

3. Dissolution of a marriage (matrimony) between a national of the Republic of Kazakhstan and a foreign national or between a national of the Republic of Kazakhstan and a stateless person subject to the legislation of the corresponding state is acknowledged valid in the Republic of Kazakhstan.

4. Dissolution of a marriage (matrimony) between foreign nationals effected outside the Republic of Kazakhstan subject to the legislation of the corresponding state is acknowledged valid in the Republic of Kazakhstan.

Article 245. Marriage (Matrimony) Dissolution Statement Content

Marriage (matrimony) dissolution statement contains the following information:

1) surname (before and after the marriage (matrimony) dissolution), name, patronymic, date and place of birth, age, legal nationality, ethnic nationality, place of residence, legal address, education, source of income or place of employment, number of previous marriages of the spouses;

2) date of creation, recording number of marriage (matrimony) statement and name of Bureau of civil registration of the territorial justice agency of marriage (matrimony) state registration;

3) documents constituting the ground for dissolution of a marriage (matrimony);

4) date of marriage (matrimony) dissolution;

5) requisite elements of identification documents of the divorced spouses;

6) state fee payment note;

7) information on the petitioner;

8) type and number of certificate of annulment.

Article 246. Issue of Certificate of Annulment

Under the marriage (matrimony) dissolution statement in Bureau of civil registration of the territorial justice agency, each party is issued standard certificate of annulment upon petition regardless of the time of state registration of marriage (matrimony) dissolution.
Article 247. Certificate of Annulment

Certificate of annulment contains the following information:
1) surname (before and after the marriage dissolution), name, patronymic, date and place of birth, age, legal nationality, ethnic nationality, if stated in the identification documents of the divorced spouses;
2) documents constituting the ground for state registration of dissolution of a marriage (matrimony);
3) marriage (matrimony) dissolution date;
4) date of creation and recording number of certificate of annulment;
5) surname, name, and patronymic of the person received the certificate of annulment;
6) date of issue and name of Bureau of civil registration of the territorial justice agency issuing the document;
7) type and number of certificate of annulment.

In case judicial dissolution of a marriage the certificate of annulment must contain the date of entry of judicial decree of marriage (matrimony) dissolution into legal force.

CHAPTER 29. STATE REGISTRATION OF ADOPTION OF A CHILD

Article 248. Reason for State Registration of Adoption of a child

Adoption of a child is registered in Bureau of civil registration of the territorial justice agency on the reasons of effective adoption order.

Adoption can be made only after the registration of child birth or restoration of the lost certificate record about his/her birth.

Information about adoptive child and adoptive parents are listed in the certificate record in accordance with the information specified in the court decision.

Article 249. Place of state registration of adoption of a child

State registration of adoption of a child is effected in Bureau of civil registration of the territorial justice agency at place of adoption order issue.

Article 250. Petition for State Registration of Adoption of a Child

1. State registration of adoption of a child is effected upon petition of the adoptive parent upon presentation of identification documents and effective adoption order.
Standard petition for state registration of adoption of a child is determined by the Ministry of Justice of the Republic of Kazakhstan.

Adoptive parents are entitled to authorize other individuals with a notarized written document to file a petition for state registration of adoption of a child.

2. In case the adoptive parent(s) or the authorized agent don’t file a petition for state registration of adoption of a child within one month after the date of entry of adoption order into legal force, Bureau of civil registration of the territorial justice agency autonomously effects state registration of adoption of a child on the ground of a copy of the order or abbreviate of order forwarded by the judicial court that issued the order.

Article 251. State Registration of Inter-Country Adoption

1. Inter-country adoption and annulment of inter-country adoption of a child who is a national of the Republic of Kazakhstan in the territory of the Republic of Kazakhstan is effected in accordance with the legislation of the Republic of Kazakhstan subject to the present Code.

2. Supervision over the children subject to inter-country adoption is effected by foreign offices of the Republic of Kazakhstan and the authorized agency for protection of children rights.

Article 252. Content of Adoption Statement

Adoption statement contains the following information:
1) surname, name, and patronymic of the child before and after the state registration of adoption;
2) date and place of birth, legal nationality of the child;
3) surname, name, patronymic, and legal nationality, ethnic nationality of the adoptive parents in the presence of birth statement or certificate of birth;
4) date of creation and recording number of adoption act, name of Bureau of civil registration of the territorial justice agency effecting the state registration of adoption of a child;
5) date of creation of adoption act;
6) surname, name, patronymic, legal nationality, ethnic nationality, source of income or place of employment, place of permanent residence of the adoptive parents;
7) whether the adoptive parents are registered by the child’s parents;
8) information on document constituting the ground for state registration of adoption;
9) certificate number.

Article 253. Issue of Adoption Certificate and New Birth Certificate
Bureau of civil registration of the territorial justice agency issues an adoption certificate upon state registration of adoption. In case of change of date and place of birth, surname, name and patronymic name of the adopted child as well as registration of the adoptive parent(s) as the adopted child’s parents in the birth statement in the register of births, new birth certificate is issued.

In case of adoption of two and more children, adoption certificate is issued for each child.

Article 254. Adoption Certificate

Adoption certificate contains the following information:
1) surname, name, patronymic and birth place of the adopted child;
2) ground for state registration of adoption of a child;
3) surnames, names, and patronymics of the adoptive parents;
4) surname, name, and patronymic assigned to the adopted child upon state registration of adoption;
5) date and place of state registration, name of Bureau of civil registration of the territorial justice agency;
6) date of certificate;
7) type and number of certificate.

Article 255. Annulment of Adoption Statement

1. Adoption statement is declared null and void on the ground of effective court ruling on cancellation of adoption order or invalidation of adoption.
2. Application for annulment of adoption is filed by the parents of a child if adoption was declared null and void upon their application or by the authority performing the guardianship functions if annulment of adoption followed its application.

Article 256. Protection of Adoption Secrecy by Bureaus of Civil Registration of the Territorial Justice Agency

1. Employees of bureaus of civil registration of the territorial Justice agency may not without consent of the adoptive parents give information on adoption or issue documents, which content suggest that the adoptive parents are not natural parents of a child.
2. Information on the adopted child is only submitted upon request from government agencies within their cognizance, specified in the Acts of the Republic of Kazakhstan.
CHAPTER 30. STATE REGISTRATION OF CHANGE OF NAME, PATRONYMIC AND SURNAME

Article 257. Reasons for State Registration of Surname, Name and Patronymic

State registration of change of surname, name and patronymic is effected in Bureau of civil registration of the territorial justice agency upon petition of an individual who has attained the age of sixteen years wishing to change his or her surname, name and(or) patronymic.

Change of surname, name and patronymic can effected for the following justifiable reasons:

1) unpleasant surname, name or patronymic;
2) hardly pronounceable surname, name or patronymic;
3) wish of one of the spouses to have common surname with the other spouse if they didn’t preserve their premarital names upon the marriage;
4) wish to have premarital name if this wasn’t announced upon dissolution of a marriage (matrimony);
5) wish to have common surname with the children of a former marriage in case the subsequent marriage is not dissolved;
6) wish to have premarital name in the event of death of one of the spouses;
7) wish to have common surname with the children in the event of death of one of the spouses provided the petitioner had his or her premarital name;
8) wish to have last and(or) name concordant with the ethnic nationality of one of the parents at the discretion of the petitioner (if the parents have different ethnic nationalities);
9) wish to have actually used name, if different from the name in documents;
10) wish to have premarital surname if married name was assumed upon marriage;
11) wish to have surname after name of father or grandfather as national tradition demands;
12) wish to have surname and patronymic after surname and name of the individual who has actually brought up the petitioner;
13) wish to have surname, name and patronymic according to the gender of the petitioner in case of transsexual surgery.

Article 258. Place of State Registration of Change of Surname, Name, and Patronymic
Application for change of surname, name or patronymic is filed to Bureau of civil registration of the territorial justice agency at the residence of the applicant.

In case application for change of surname, name or patronymic is accepted, state registration is effected at the residence of the applicant.

Article 259. Application for Change of Surname, Name or Patronymic

Application for change of surname, name or patronymic must include the following information:
1) surname, name, and patronymic of the applicant;
2) new surname, name, and patronymic;
3) reasons for change of surname, name, and patronymic

Article 260. Period for Consideration of Application for State Registration of Change of Surname, Name or Patronymic

Application for change of surname, name or patronymic is effected in Bureau of civil registration of the territorial justice agency according to the procedure specified in the legislation of the Republic of Kazakhstan on consideration of applications from legal entities and individuals.

Article 261. List of Documents to be Attached to an Application for Change of Surname, Name or Patronymic

Application for change of surname, name or patronymic must enclose the following documents justifying the reasons for change of surname, name or patronymic:
1) birth certificate of the applicant;
2) marriage certificate, if the applicant is married;
3) birth certificate of the applicant’s underage child, if any;
4) adoption certificate, affiliation certificate, if such was registered in bureaus of civil registration of the territorial Justice agency;
5) certificate of annulment if the applicant applies for assuming of premarital surname due to marriage (matrimony) dissolution;
6) two photographs of the applicant.

In case of necessity, other documents will be reclaimed.

Article 262. Refusal of State Registration of Change of Surname, Name or Patronymic

Refusal of Bureau of civil registration of the territorial justice agency to change surname, name or patronymic can be appealed against.
Article 263. Content of Certificate of Change of Surname, Name or Patronymic

Statement of change of surname, name or patronymic must contain the following information:
1) surname, name and patronymic of the applicant before and after the state registration;
2) date and place of birth;
3) legal and ethnic nationality;
4) place of registration, date of creation and recording number of the birth statement;
5) ground for statement of change of surname, name or patronymic;
6) requisite elements of identifying documents;
7) state fee payment note;
8) date of issue and name of Bureau of civil registration of the territorial justice agency issuing the document;
9) type and number of certificate of change of surname, name or patronymic.

Article 264. Information Subject to Change due to Change of Surname, Name or Patronymic

After change of surname, name or patronymic on the ground of the corresponding statement changes are introduced into birth statement of the individual whose surname, name or patronymic was (were) changed. Other statements are left unaltered.

To confirm the change of surname, name or patronymic a standard certificate of change of surname, name or patronymic shall be presented.

Article 265. Issue of Certificate of Change of Surname, Name or Patronymic

After state registration of change of surname, name or patronymic the individual shall obtain a certificate of change of surname, name or patronymic.

The certificate on change of surname, name, and patronymic is given at the place of state registration only to the person in respect of whom change is made.

Article 266. Certificate of Change of Surname, Name or Patronymic

The certificate of change of surname, name or patronymic must contain the following information:
1) surname, name, and patronymic before and after state registration of change of surname, name or patronymic;
2) date and place of birth;
3) date of creation and recording number of change of surname, name or patronymic;
4) name of Bureau of civil registration of the territorial justice agency effecting state registration of change of surname, name or patronymic;
5) date of certificate of change of surname, name or patronymic;
6) type and number of certificate.

Article 267. List of Governmental Agencies to be Informed of Change of Surname, Name or Patronymic of an Individual

In case of change of surname, name or patronymic of an individual notification of this action are to be sent within one week to the following agencies: bodies of internal affairs, national security committee, bodies of prosecutor’s office, financial police, local bodies of military administration, tax committee at the permanent residence of the individual, and Bureau of civil registration of the territorial justice agency of state registration of birth.

CHAPTER 31. STATE REGISTRATION OF DEATH

Article 268. Reasons for State Registration of Death

There following reasons for state registration of death:
1) standard document of death issued by a medical establishment;
2) effective court ruling on establishment of fact of death or declaration of death.

Article 269. Place of State Registration of Death

State registration of death is effected in Bureau of civil registration of the territorial justice agency at the residence of the decedent or at place of death.

Article 270. Application for Registration of Death

1. Application for registration of death if filed in writing or orally by the individuals residing with the decedent; or, in the absence thereof, by the neighbours, employees of the housing operating entities, local executive bodies, administration of the institution where the decedent resided or died, or internal affairs agency that discovered the body.
2. Application for state registration of death, in case the body is unidentified or unclaimed is conducted in written form by official of forensic medical examination organization according the place of discovery of the decedent.

3. Application for registration of death must contain the following information: name, patronymic, surname, date of birth, last place of residence of the decedent, civil status, date (year, month, and day) of death, cause of death, name, patronymic, surname, and place of residence of the individual who filed the application for registration of death.

4. Passport, identification card, and military service record card of the decedent are to be submitted to Bureau of civil registration of the territorial justice agency for registration of death.

Article 271. State Registration of Death, in Case the Body is Unidentified or Unclaimed

State registration of death, in case the body is unidentified or unclaimed, is effected in bureaus of civil registration of the territorial Justice agency at place of discovery of the body or at the place of forensic medical report issue.

Death statement, in case the body is unidentified or unclaimed, will include information necessary for state registration of death that is contained in medical certificate of death.

In case of subsequent identification of the decedent the missing information will be enregistered in death statement on the ground of medical certificate of death and written motion of the applicant without report.

Death certificate of state registration of persons, in case the bodies are unidentified or unclaimed in the form prescribed by the Ministry of Justice of the Republic of Kazakhstan is issued to the corresponding service of the local executive agencies.

Article 272. Content of Death Statement

Death statement must contain the following information:

1) surname, name, patronymic, date and place of birth, last place of residence, gender, legal nationality, ethnic nationality (if specified in the identification documents), date and place of death of the decedent;

2) cause of death on the ground of the document confirming the fact of death;

3) document confirming the fact of death;

4) surname, name, patronymic, and place of birth of the applicant, or name and legal address of the agency, organization or institution that filed an application for registration of death;

5) type and number of death certificate.
Article 273. Issue of Death Certificate

Death certificate after conclusion of death state registration is issued to the close relatives of the decedent who are in circle of heirs, or to the citizens who took care of the decent, as well as representatives of administration of the state organizations where the decent lived or served sentence.

Death certificate is issued to other relatives by the notification of notary officer who has Probate case.

Death certificate of the persons, in case the bodies are unidentified or unclaimed is issued only after introduction of all necessary information into the death statement.

Article 274. Death Certificate

Death certificate must contain the following information:
1) surname, name, patronymic, date and place of birth, age of the decedent, date and place of death;
2) date of creation and recording number of death statement;
3) date of issue and name of the issuing Bureau of civil registration of the territorial justice agency;
4) type and number of death certificate.

SECTION 7. APPLICATION OF NORMS OF MARRIAGE AND FAMILY LEGISLATION IN KAZAKHSTAN

CHAPTER 32. APPLICATION OF NORMS OF MARRIAGE AND FAMILY LEGISLATION TO FOREIGN NATIONALS AND STATELESS PERSONS

Article 275. Personal Non-Property and Property Rights and Obligations of the Spouses

Personal non-property and property rights and obligations of the spouses are determined by the legislation of the country of joint place of residence; in the absence thereof – by the legislation of the country of last joint place of residence. Personal non-property and property rights and obligations of the spouses in the territory of Republic of Kazakhstan, who had no joint place of residence heretofore, are determined by the legislation of the Republic of Kazakhstan.
Article 276. Establishment and Contest of Paternity (Maternity)

1. Establishment and contest of paternity (maternity) are determined by the legislation of the country which nationality the child acquired by birth.

2. Procedure of establishment and contest of paternity (maternity) in the territory of Republic of Kazakhstan is determined by the legislation of the Republic of Kazakhstan. If according to the legislation of the Republic of Kazakhstan paternity (maternity) can be established in bureaus of civil registration of the territorial Justice agency, parents of the child (non-residents of the Republic of Kazakhstan) can apply for establishment of paternity (maternity) to one of the foreign offices of the Republic of Kazakhstan, if at least one of the parents is a national of the Republic of Kazakhstan.

Article 277. Rights and Obligations of Parent(s) and Children

Rights and obligations of parent(s) and children, including parental obligations of children maintenance, are determined by the legislation of the country of joint place of residence. In the absence thereof rights and obligations of parent(s) are determined by the legislation of the country which nationality has the child.

Upon the application of the parent suing for alimony, the legislation of the country of the child’s permanent residence can be applied to alimentary obligations and other relationships between parents and children.

Article 278. Alimentary Obligations of Adult Children and Other Family Members

Alimentary obligations of adult children in behalf of the parent(s), as well as alimentary obligations of other family members are determined by the legislation of the country of joint place of residence. In the absence thereof these obligations are determined by the legislation of the country which nationality is held by the individual entitled to alimony.

Article 279. State Registration of Civil Statutes Documents of Non-Resident Nationals of Republic of Kazakhstan

1. State registration of civil statutes documents of nationals of the Republic of Kazakhstan, temporarily or permanently residing outside the Republic of Kazakhstan, is effected in foreign agencies of the Republic of Kazakhstan, then the statements effected are transferred to the territorial justice agency of the capital city of the Republic of Kazakhstan.
2. The legislation of the Republic of Kazakhstan is applied to state registration of civil statutes documents if the parties concerned are nationals of the Republic of Kazakhstan.

Article 280. Acknowledgement of Documents Issued in Foreign States Confirming Performance of Civil Statutes Documents

Documents issued by the authorized agency of the foreign states confirming performance of civil statutes documents outside the Republic of Kazakhstan under the law of the corresponding state with regard to nationals of the Republic of Kazakhstan, foreign nationals, and stateless persons are validated in the Republic of Kazakhstan if furnished with consular legalization or special stamp (apostille).

The competent authorities of the Republic of Kazakhstan are obliged to assist refugees and forcibly displaced persons in reception of marriage (matrimony) certificate, birth certificate and other civil state documents at the place of a former residence.

CHAPTER 33. CONCLUDING AND TRANSITORY PROVISIONS

Article 281. Responsibility for Violation of Marriage and Family Laws of the Republic of Kazakhstan


Article 282. Procedure of Application of the Present Code

1. The present Code is applied to the legal relations arising after introduction of the Code into effect, except for item 2 of the present Article.
2. Adoption agencies must obtain accreditation from an authorized agency for protection of rights of children within one year after introduction of the present Code into effect.

Article 283. Procedure of Introduction of the Present Code into Effect

1. The present Code is carried into effect upon the expiry of period of ten calendar days after its first official publication.
2004 – No23, article 142; 2006 – No1, article 5; 2007 – No3, article 20; No9, article 67; No20, article 152; 2011 – No6, article 49).

President of the Republic of Kazakhstan
N. Nazarbayev

Astana, Akorda, 26 December, 2011
No518-IV LRK