

In the Name of the Exalted

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The “family Protection Act” that was, as suggested by the Judiciary, ratified by the cabinet on 3/4/1386 [24 June 2007], is attached in order to undergo the proper legal procedures.

Mahmoud Ahmadinejad
President

With attention to the special role and status of family in the legal and educational classifications of Islam and nothing the illegalization of a portion of the law related to family rights, and the existence of absence of a legal procedure in this matter and due to dispersion and an absence of clarity on the abrogating body and abolishing of the laws cause repeated issues such as confusion for the Prosecution offices in processing family claims and in light of certain shortcomings and defects in laws governing the family and their lack of concurrence with the realities of the day and in order to act upon the content of article 21 of the Constitution of the Islamic Republic of Iran and in order to achieve removal of judgment and to reduce the existing problems in regulations of Family Law and remove ambiguity, expostulation and absence of law in the current family related law and to uphold section (2) of article (158) of the constitution, the act below is submitted to undergo proper legal procedures.

Family Protection Act

Chapter One: Family Court

Article 1 – In executing Note 3 of Article 21 of the Constitution and for the purpose of investigating family matters and claims that are subject of this law, the judiciary is duty bound to, within 3 years since the passage of this law form family courts in all the legal constituencies in the cities. Forming this court in legal constituencies of the districts is in correlation to possibilities and with discretion of the head of the judiciary

Note 1 – From the time of execution of this law, the general legal court of the judicial constituencies of cities where there is no family court will have subject matter jurisdiction, with attention to relevant formalities, to family matters and claims.

Note 2 – In legal constituency of the districts where no family court has been formed, the court located in that constituency, with attention to relevant formalities and regulations, will process the family claims other than claims related to marriage and its annulment that will be processed in the family court of the closest legal constituency.

Article 2 – Family court is formed with the presence of one chief or substitutable prosecutor and two advisors one of whom, if possible, will be a woman holding legal status. The meetings are official and verdicts are issued only if maximum presence is reached.

Article 3 – Chief or substitutable prosecutor of Family Court must be married and have at least four years of legal experience.

Article 4 – Matters and claims regarding the following will be investigated in the Family Court:

- 1- Courtship and damages sustained due to its cancellation;
- 2- Permanent and temporary marriage and permission in marriage;
- 3- Divorce, revocation, annulling and marriage annulment, amount of time and its expiration;
- 4- Alimony for relatives, *mihriyyih*¹ and alimony to wife and other rights stemming from the marriage relationship;
- 5- Dowry;
- 6- Custody and visiting the child;
- 7- Parentage;

¹ Mihriyyih is a property man gives away or takes upon the payment of to the wife at the time of the signing of the marriage contract.

- 8- Discord between and obedience of the couple to one another;
- 9- Natural guardianship and guardianship and matters regarding the supervisor and trustee of the minors;
- 10- Development and no longer being a minor;
- 11- Conditions set while entering marriage;
- 12- Guardianship of children with no guardian;
- 13- Offering away the fetus.

Article 5 – The court will also investigate matters explained in chapter six of this law.

Article 6 – Whichever side does not have adequate financial means, as decided by the court, will be excused from paying the prosecution expenses. Further, pursuant to the request of the person who lacks adequate financial support, the court will assign him an assistant council. If the court finds him to be transgressed upon, the court will issue a verdict and also find the transgressor responsible for paying the court costs as well as the cost for the assistant council, unless it was previously attained that he/she lacks adequate financial support as well.

Article 7 – Mother or any other person, who has the custody or is due to necessity in charge of the minor, even if he/she does not have guardianship, has the right to claim for receiving alimony for the minor.

Article 8 – Before deciding about the subject matter of the dispute, the court will issue temporary orders for matters that have urgency such as custody, upkeep, visiting the child, and wife's alimony without acquiring a guarantee from either side. This order can be issued without the approval of the head of the legal constituency and if the court does not make a decision regarding the main subject of the dispute within six months time, it will be forfeited and removed, unless the court issues a temporary order regarding this matter again.

Article 9 – Investigating in Family Court will occur once a petition is submitted and without the other provisions of the Civil Procedural Code and with accordance to the procedural code for executing this law.

Article 10 – Communiqués of the Family court will be handed down via post, fax, phone messages, email or any other method the court deems fit. At any rate, ensuring the correctness of the communiqué is the responsibility of the court.

Article 11 – The court can postpone the court date for up to two times by request of the couple in order to provide them with more time for reconciliation.

Article 12 – In the claims that are subject of this law, once the court has issued a verdict, the transgressed upon can request the court that issued the initial verdict to hold the transgressor in custody until the sentence is carried out.

Article 13 – In cases where the topic of dispute is claiming of the moveable *mihriyyih* or alimony, the wife can issue the claim from her place of residence or living.

Article 14 – Whenever the couple have issues and claims that are subject to the jurisdiction of Family Court in multiple legal jurisdictions, the court that received the first petition is fit to process the claims and if multiple claims were filed on one day, the court that has the jurisdiction over the claims filed by the wife will process all the claims.

Article 15 – If one of the couple in dispute is resident of another country, the court with jurisdiction over the place of residence of the one who lives in the country is fit to process the claim. If both the couple are residents of another country but one is temporarily residing in Iran, the court of their place of residence, and if both are temporarily residing in Iran the court of the wife’s place of residence is fit to process the claim and if neither temporarily reside in Iran then the court of Tehran province has jurisdiction to process the claim, unless if the couple agree on another location for processing.

Article 16 – Head of the Judiciary can assign branches of the family courts of Tehran to investigate the claims of Iranian families who reside outside of the country and give the judges of those branches the responsibility, as per the request of the Ministry of Foreign Affairs, to investigate such claims in the consulate and embassy’s of Iran in those locals, until expiration of the responsibility. Verdict of these branches that are issued outside the country are executed just like those inside the country.

Note – Whenever, due to the aforementioned courts not existing or not being reachable, the Iranians residing outside of the country file their family related claims in competent courts of their place of residence, their verdict will only be carried out inside Iran if a competent Iranian court investigates the verdicts and issues a confirmation verdict.

Chapter Two: Family Counseling Centers

Article 17 – In order to strengthen family values and prevent family disputes and in particular divorce, and in a strive to created peace and compatibility, the judiciary is duty bound to, within three years from the date of the passage of this law, form “Family Counseling Centers” along with Family Courts.

Article 18 – In a legal jurisdiction where the Family Counseling Centers are created, the court can wherever necessary, while outlining the disputed issues and designating a deadline, asks for the opinion of the Family Counseling Centers.

Article 19 – Along with offering counseling services, Family Counseling Centers attempt to execute court's request in the allotted time and in the relevant case strive to achieve reconciliation. If achieved, a reconciliation note is written, otherwise, they will offer their expert opinion to court in writing and with reasoning.

Note – If the couple agrees to seek a divorce, the Family Counseling Center will act in accordance to article 26 of this law.

Article 20 – The court must take into account the expert opinion of the Family Counseling Center and then issue a verdict, unless it finds the aforementioned opinion in clear contradiction of the case's situation.

Article 21 – Members of the Family Counseling Centers are selected from amongst experts in various fields such as psychology, social work, Law, jurisprudence and Islamic law, and at least half of the members of each center must be comprised of eligible married women. Other conditions, number of members, method of choosing, selection process, education and method of processing their transgressions, establishment, manner of carrying out responsibility, number of Family Counseling Centers and introducing their responsibilities and how they go about them is subject to a procedural code that will be put together three months after the passage of this law by the Ministry of Justice and in collaboration of Ministry of Welfare and Social Security and ratified by the Head of the Judiciary.

Note 1 – Counseling sessions will if possible be formed in the presence of individuals trusted by both parties and if possible their relatives.

Note 2 – all the disagreement and family disputes can be discussed in the conflict resolution councils. If both parties refer to such councils, the council will form in the presence of the relevant expert and the sentences issues, with the exception of divorce sentence, are executable. If the desire is to execute divorce sentence, then the case is referred to court.

Chapter Three: Marriage

Article 22 – Registering permanent marriage, annulment and its voiding, divorce, revocation and announcement of marriage annulment and divorce is mandatory.

Note – Registering temporary marriage is subject to a procedural code ratified by the Minister of Justice.

Article 23 – Taking a second temporary wife is subject to permission from court after approval of the man’s financial ability and his guarantee for executing justice between his wives.

Note – In case of multiple marriages, if the *mihriyyih* is current and the first wife requests it, permission to register the second marriage is dependant upon payment of *mihriyyih* to the first wife.

Article 24 – Ministry of Health, Medical Care and Education is responsible to, within a month since the passage of this law, explicate and announce the diseases for which the couple has to be vaccinated before marriage and contagious and dangerous diseases for the couple and children resulting from the union. All the marriage offices are responsible to, before registering the marriage, request both parties to produce a documents issued by a physician and centers that the Ministry of Health, Medical Care and Education has announced to be qualified and archive them that testifies their lack of addiction to narcotics and contraction of the diseases that are subject of this law as well as vaccination.

Article 25 – Ministry of Economics and Finances is duty bound to tax excessively and uncommonly high *mihriyyihs* at the time of registering them in accordance to the situation of the couple and economic situation of the country and in compliance with the increase of the amount of *mehriyyih* based on inflation. Acceptable amount of *mihriyyih* and the taxing of it accordingly will be with attention to the economic situation of the country and based on a circular suggested by the Ministry of Economic and Finances and approved by the cabinet.

Chapter Four – Divorce

Article 26 – Registering divorce and other methods of annulling a marriage in official offices will only be permitted after the certificate of having irreconcilable differences or the related verdict issued by court or the certificate of the Family counseling Center regarding stating the couple’s agreement on divorce has been issues.

Article 27 – In the case when the couple agrees on divorce they must refer their case to the Family Counseling Center. The Centers will, in addition to offering Counseling, strive to reconcile and dispense them from requesting divorce. If reconciliation is reached

and divorce is dispensed, reconciliation note is devised; otherwise statement registering the agreement of the couple on divorce is issued, clearly stating the points of agreement.

Article 28 – If the divorce is basically by request of the man, petition for issuance of the note stating irreconcilable differences and if it is by request of the woman, depending of the case, petition for issuing an order for necessity of divorcing or reaching the conditions for exercising legal assistance in divorce will be submitted to the court.

Article 29 – In all the cases requesting divorce other than in case of agreement of both parties on divorce, the court is responsible to, while trying to create peace and reconciliation, refer the case for arbitration. Taking into account the opinions of the arbiters, the court will issue statement of irreconcilable differences or divorce verdict or if it disagrees with the opinion it will reject it providing reason.

Article 30 – After the issuance of order to refer the case for arbitration, each of the spouses must within a weeks time from the date of issuance, introduce one of their relatives who is at least 30 years old, married and has knowledge of Shri'a, family and social matters to court as arbiter.

Note 1 – People who are married but their wives have passed away can be accepted as arbiter.

Note 2 – Method of selecting and inviting the judges, their responsibilities and number of meetings will be in accordance with a procedural code that will be devised by Ministry of Justice and ratified by the Head of the Judiciary within three months from the date of the passage of this law.

Article 31 – If there was no qualified individual amongst the relatives or there was no access to such a person or the relatives refuse to accept to be the arbiter, each of the spouses can choose and introduce their arbiters from amongst other qualified individuals and if they refuse or are not able to introduce an arbiter, the court will, by request of the spouses or on its own, choose an arbiter from the qualified members of the Family Counseling Centers.

Article 32 – When issuing a divorce order or a note stating irreconcilable differences, the court will make decisions for the fate of the dowry, *mihriyyih*, alimony for the wife, children and carrying and manner of upkeep of the child and its cost and method of payment. Furthermore, the court will decide the time, manner and place of visitation with father, mother and other relatives, having in mind the emotional dependency and interest of the child. Registering divorce is dependant upon achieving the aforementioned rights,

other than when the wife agrees or a definite order of insolvency or payment arrangement has been issued. In any case, if the wife agrees to be divorce without ensuring the aforementioned rights, she can request these rights through said court proceedings after the divorce is registered.

Note – Physician’s note regarding the presence or absence of a fetus must be submitted, unless the couple is in agreement that the fetus exists.

Article 33 – Statement noting irreconcilable differences is valid for three months from the date of its issuance or the date of court verdict to be submitted to the divorce office. If the aforementioned statement is not submitted within this time period or the person who submitted it to the divorce office does not appear in front of the office within three months time or does not submit the required documents, the statement will no longer be valid.

Note 1 – If the court verdict is appealable, the time noted in the beginning of this article will be considered from the date of issuance of the appeal decision or the expiration of the appeal period.

Note 2 – Definite statement and executable decision will be issued by the court and handed over to the divorce office at the same time.

Note 3 – Processing the appeal to a divorce decision should not take more than six months.

Note 4 – If the wife marries after the divorce is issued, verdict can no longer be set forth for the annulment of the verdict based on which the divorce was issued.

Article 34 – The statement noting divorced agreed upon by both parties is also valid for three months from the date of its issuance by the Family Counseling Centers and will be executed with the presence of both parties.

Article 35 – If the husband appears in the divorce office at the designated time and submits the statements noting irreconcilable differences, if the wife does not appear within a week time, the notary public will give a warning to the couple to appear in the office to get divorced and register it. If the wife does not appear and does not announce a reason for it, the divorce is issued and registered and if an excuse is announced, another date is given in the manner explained. In case of wife’s absence, she will be informed of the matter by the notary office.

Article 36 – If the divorce verdict is submitted to the notary office by the wife, if the husband does not appear in front of the office within a week time, the notary public will

give a warning to the couple to appear in the office to get divorced and register it. If the husband does not appear and does not announce a reason for it, the divorce is issued and registered and the husband is notified of it by the notary office. If an excuse is announced, another date is given in the manner explained.

Note – time between the issuance of the warning and the session in which divorce is issued stated in this article and the article before should not be less than a week.

Article 37 – divorce is issued, meeting all the Shari'a criteria's in the official offices or any other place in the presence of the notary public or his representative.

Article 38 – in the revocation divorce, divorce is issued as prescribed by law and the matter is registered but issuing of the divorce is pending upon at least two witnesses testifying in writing that the divorced woman's resided in the house she shares with her former husband until the end of *iddah*², unless the wife agrees on the divorce registering. If revocation happens, the divorce registration is canceled and if it doesn't happen the registration is completed and divorce is issued. The complete registration will be signed by the notary public, the couple or their representatives and two witnesses. If the wife so requests, a statement regarding the completion of divorce and the failure of revocation will be given to her.

Chapter Five: Custody and Upkeep of the Children

Article 39 – If the court decides that and agreement regarding the visitation, custody, up keeping and other matter related to the children are contrary to the children's interest and welfare or in the cases where the person responsible for having custody refuses to do the duties prescribed to custody holders or prevents the visitation between the child he/she has custody of with those who have visitation rights, the court can make any decision that has the interest of the child in mind including transferring custody to someone else or appointing a supervisor with the prescribed scope of responsibilities and other such decisions.

Article 40 – A child cannot be taken out of his place of residence that was agreed upon by both parties, or his place of residence before the divorce took place or sent outside the country without the approval of his/her guardian, mother or the person who has custody

² *Iddah* is the time period a woman has to wait after divorcing from her husband or the death of her husband before she can marry again. According to Shari'a this time is three months and ten days (100 days) and the purpose of it is to respect the previous marriage and to prevent mixing of offsprings.

and is responsible for upkeep of the child unless it is deemed by court to be within the interest and welfare of the child and within the scope of visitation rights by those who have such rights by.

Article 41 – If the governmental ministries and companies, and public or non governmental institutions and organs, have to hand over properties or announce a minor as owner of them, within the scope of providing for the ordinary living standard, such properties must be placed in the hands of the person who has the custody and is responsible for the upkeep of the minor, unless otherwise ordered by the court.

Article 42 – If the woman or other individuals who must be provided with alimony request it, the court will decide on the amount and manner of paying for alimony going forward.

Note – Regarding this article and other articles that require payment to be received from the losing party, one request for issuance of an execution order is enough and the required actions will continue so long as a new order has not been issued by the court.

Article 43 – Payment of wife’s alimony and making payment for the upkeep expenses and alimony of the child takes precedence over all other expenses.

Chapter Six: Criminal Regulations

Article 44 – If a man takes action for permanent marriage, divorce, annulment or revocation without registering it in the official books, he will be fined from fifty to one hundred thousand rials as well as subject to a social deprivation.

Article 45 – If a physician issues a statement contrary to the facts for the topics of article 23 of this law, he will be prevented from practicing medicine from three to five years.

Article 46 – Any foreign individual, who marries an Iranian woman without the permission that is the subject of article 1060 of the civil code, will be sentenced from ninety one days to one years’ imprisonment. In such case, if the woman married on her own free will and the guardian of the girl in case the marriage was not one of her own choosing as well as the person who married them will be tried as accessory to the aforementioned crime.

Article 47 – Any notary public who without having permission from the court registers a second marriage, or without court verdict or a statement noting irreconcilable differences or a confirmation verdict regarding sentenced issued in other countries or statements of the Family Counseling Centers regarding the agreement of the couple on divorce,

chooses to register any of the reasons for dissolution of marriage will be subject to permanent dismissal from the position of notary public.

Article 48 – Anyone who has the custody of the child, if he/she refuses to carry out the responsibilities of having custody or prevent the visitation of the child with the person who has visitation rights will be fined between five hundred thousand to five million rials.

Article 49 – Anyone who denies being married it is proven that his denial was baseless, or anyone who contrary to the facts claims being married to another, will be sentenced between three months and a day and one year's imprisonment or fined between ten to forty million rials. The same applies to their legal substitutes who denied the marriage while knowing its validity or claimed there was a marriage knowing there wasn't one.

Article 50 – If a man marries a girl who has not reached the legal age of marriage that is contrary to article 1041 of the civil code, he will be sentenced from six months to two years' imprisonment. If the marriage that is contrary to the aforementioned law results in dismemberment or permanent injuries to the wife, the husband will be sentenced from two to five years' imprisonment in addition to paying the blood money. If the marriage results in the death of the wife, he will be sentenced from five to ten years' imprisonment in addition to paying the blood money.

Article 51 – The fines prescribed as punishment in this law will be increased according to the inflation index of the central bank every three years on an individual case basis with the suggestion of the Ministry of Justice and approval of the cabinet.

Article 52 – The executive procedural code for this law by the suggestion of the Minister of Justice and approval of the Head of the Judiciary will be ratified by the cabinet.

Article 53 – From the date of this Law's execution, the below laws and all other laws and regulations contrary to this law are abrogated:

- 1- Law Regarding Marriage, passed 24/5/1310 [16 August 1931]
- 2- Law Regarding Denial of Marriage, passed 20/12/1311 [11 March 1933]
- 3- Law Necessitating Submitting a Physician's Note Before Marriage, passed 14/9/1317 [5 December 1938]
- 4- Law for Family Protection, passed 15/11/1353 [4 February 1375]
- 5- Law of custody rights, passed 22/4/1365 [13 July 1386]

- 6- Law to Enforce Vaccination against Tetanus for Ladies Before Marriage, passed 23/1/1367 [12 April 1388]
- 7- Law for Reform of the Regulations Regarding Divorce, passed 21/12/1370 [11 March 1991]
- 8- Law to Allocate a Number of Courts to Courts that are Subject of Article 21 of the Constitution, passed 8/5/1376 [30 July 1997]
- 9- Law to Determine the Time Period for Statement Citing irreconcilable Differences, passed 11/8/1367 [2 November 1388]
- 10- Article 645 and 646 of the Islamic Penal Code, passed 2/3/1375 [22 May 1996].