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Family Code N°  
5476

*(Sinalevi Note: By means of Article 2° of the law approving the Family Procedural Code, No. 9747 of October 23, 2019, it was agreed to change the denomination of several chapters of the present Code. Pursuant to transitory III of the aforementioned law said modifications will come into effect as of October 1, 2022, so that as of that date the chapters will read as follows: "(1) Title III to be entitled: Attributes of Parental Responsibility.*

*2) Chapter II of Title III to be entitled: Attributes of parental responsibility for children born in wedlock.*

*3) Chapter III of Title III to be entitled: Attributes of parental responsibility for children born out of wedlock.*

*4) Chapter IV of Title III to be entitled: Extinction, loss and suspension of the attributes of parental responsibility.").*

THE LEGISLATIVE ASSEMBLY OF THE REPUBLIC OF COSTA RICA

DECREES:

FAMILY CODE

PRELIMINARY TITLE

General Provisions

Article 1.- It is an obligation of the Costa Rican State to protect the family.

**Article sheet**

The unity of the family, the interest of the children, that of the minors and the equality of rights and duties of the spouses shall be the fundamental principles for the application and interpretation of this Code.

**Article sheet**

Article 3°.- Any qualification on the nature of filiation is prohibited.

**Article sheet**

Article 4: Regarding the rights and obligations between parents and children, there is no reference to those born in or out of wedlock.

#### Article sheet

The special protection of mothers and minors shall be the responsibility of the National Child Welfare Agency, with the collaboration of other State institutions.

In any case involving a minor, the administrative or jurisdictional body that hears the case shall have the Patronage as a party, and the fact of not having had the Patronage as such shall be cause for relative nullity of the proceedings if, in the opinion of the Court, the minor has been harmed.

The Executive Director and the representatives of the Patronato Nacional de la Infancia are prohibited, under penalty of losing their respective positions, from sponsoring, directly or indirectly, in the exercise of their profession, in judicial or administrative instances, in their respective jurisdictions, family matters in which there is an interest of minors.

*(Thus amended by Article 1 of Law No. 6045 of March 14, 1977).*

*(Sinalevi's Note: By means of Article 2 paragraph II) of the law that approves the Family Procedural Code, No. 9747 of October 23, 2019, this numeral will be amended. Pursuant to transitory III of the aforementioned law, said amendment will enter into force as of October 1, 2022, so that as of that date the new text will be as follows: "Article 5- Applicable rules. The legal rules applicable to situations related to several national legal systems are determined by the international treaties and conventions in force applicable in the case and, in the absence of rules of international source, the rules of Costa Rican private international law of internal source determined in this law shall apply.").*

#### Article sheet

Article 6°.- All legal acts, requests and actions of any kind, which are processed or carried out before administrative or judicial bodies, due to the application of the rules of this Code, shall be exempted from stamp and fiscal stamp taxes.

*(Sinalevi's Note: By means of Article 2 paragraph II) of the law that approves the Family Procedural Code, No. 9747 of October 23, 2019, this numeral will be amended. According to transitory III of the aforementioned law, this amendment will enter into force as of October 1, 2022, so that as of that date the new text will be as follows: "Article 6 - Application of foreign law. When a foreign law is applicable, the Costa Rican judge will do it ex officio and avoiding the figure of the resubmission, being able to count on the direct collaboration of the parties. The judge will seek to be clear about the validity, content and current interpretation of the foreign law. Such interpretation will be as it is made by the judges of the State to which such law belongs.*

*In order to demonstrate the foregoing, the judge may use all the mechanisms he deems necessary and, at his discretion, may use the following resources:*

- a) Documentary evidence, consisting of certified copies of legal texts with indication of their validity or judicial precedents.*
- b) Expert evidence, consisting of opinions of lawyers or experts in the field.*
- c) Reports from the requested State on the text, validity, meaning and legal scope of its law on certain aspects.*

*If there are several coexisting legal systems with territorial or personal jurisdiction, or if there is a succession of different legal systems, the applicable law shall be determined by the rules in force within the State to which that law belongs and, in the absence of such rules, by the legal system that is most closely connected with the legal relationship in question.*

*If different rights are applicable to different aspects of the same legal situation or to different legal relationships in the same case, these rights must be harmonized by the judge, taking care to make the necessary adaptations to respect the purposes pursued by each of them.*

*The party who considers himself affected by the violation of the present rule and who has alleged it before the first instance judgment may, at the appropriate procedural time, file an appeal in cassation for infringement, misinterpretation or misapplication of a law of another Contracting State, under the same conditions and in the same cases with respect to national law.*

*The applicable provisions of foreign law must be excluded when they lead to solutions that are incompatible with consequences that violate the fundamental principles of international public order that inspire the Costa Rican legal system").*

## **Article sheet**

Article 7.- In order to enforce the rights set forth in this Code, those who lack legal assistance and the economic resources to pay for it, have the right to have it provided by the State in accordance with the law.

*(Sinalevi's Note: By means of Article 2 paragraph II) of the law that approves the Family Procedural Code, No. 9747 of October 23, 2019, this numeral will be amended. In accordance with transitory III of the aforementioned law said amendment will enter into force as of October 1, 2022, so that as of that date the new text will be as follows: "Article 7- Law applicable to the State and capacity of persons. The law applicable to the State of the persons shall be the law of their domicile. In the absence of the former, the law of the habitual residence shall apply.*

*The capacity of persons shall be subject to the law of the place of celebration of the act or family contract performed. In the absence of the foregoing, the law of the domicile of the person shall be applicable and, in the absence of such domicile, the law of the nationality shall be applicable.*

*The change of domicile of the person does not affect his or her capacity once it has been acquired.").*

## **Article sheet**

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Article 8.- The courts with jurisdiction over family matters shall be responsible for hearing all matters regulated by this Code, in accordance with the procedures set forth in the civil procedural legislation.

However, the judges in family matters shall interpret the evidence without being subject to the positive rules of ordinary evidence, taking into account all the circumstances and the elements of conviction that the records provide; but, in any case, the reasons for the evaluation must be stated.

The appeal admissible before the Chamber of Cassation shall be governed, in all applicable matters, by the provisions of Chapter V, Title VII of the Labor Code.

*(As amended by the sole article of Law No. 7689 of August 21, 1997)*

*(Sinalevi's Note: By means of Article 2 paragraph II) of the law that approves the Family Procedural Code, No. 9747 of October 23, 2019, this numeral will be amended. In accordance with transitory III of the aforementioned law, said amendment will enter into force as of October 1, 2022, so that as of that date the new text will be as follows: "Article 8-Law applicable to family matters. The parties may determine, as a general rule, the law applicable to their legal relationship, which shall be done either expressly or tacitly. The above will be possible as long as it does not affect the rights of third parties, or violate due to its consequences the principles of international public order of Costa Rica or of the country whose law was originally applicable in the absence of the will of the parties.*

*In the absence of the foregoing, family relationships shall be governed by the following provisions:*

*Regarding marriage, divorce, separation and de facto union: the law of the place of celebration of the marriage governs the form, existence and validity of the matrimonial act. The claims related to the personal and economic effects of the marriage with the exception of the alimony obligations, as well as divorce and separation, will be governed by the law of the last conjugal domicile and, in its absence, the law of their last common habitual residence. In the absence of any of the above, the law of the place of celebration of the marriage will govern. As for de facto unions, their personal and patrimonial effects, with the exception of alimony obligations, are governed by the law of the last common habitual residence of the couple.*

*Regarding filiation: the conditions of recognition are governed by the law of the domicile of the child at the time of birth or at the time of the act or by the law of the domicile of the author of the recognition at the time of the act. The form of the recognition is governed by the law of the place of the act or by the law governing it in substance. All filial subpoena constituted in accordance with foreign law must be recognized in the Republic, in accordance with the principles of Costa Rican international public order, especially those that impose to consider as a priority the best interests of the child. The principles that regulate the rules on filiation by assisted human reproduction techniques integrate the international public order, and must be weighed by the competent authority when its intervention is required for the purposes of recognition of status or registration of persons born by means of these techniques. In any case, the decision that is in the best interest of the child must be adopted.*

*Regarding maintenance obligations: maintenance obligations, as well as the qualities of creditor and debtor of maintenance, shall be regulated by whichever of the following legal orders, in the judgment of the competent authority, is more favorable to the interest of the creditor:*

- 1) The legal system of the State of the creditor's domicile or habitual residence.*
- 2) The legal system of the State of the debtor's domicile or habitual residence.*

*The following matters shall be governed by the applicable law: the amount of the maintenance claim and the terms and conditions for enforcing it; the determination of those who may exercise the maintenance action in favor of the creditor, and the other conditions required for the exercise of the right to maintenance").*

## Article sheet

Article 9º.- The authorizations or approvals of the Courts required by this Code in certain cases shall be issued by means of the summary process indicated in the Code of Civil Procedure, when no other procedure is established.

*(Thus amended by Article 7 of the "Law of Issuance of the Code of Civil Procedure", No. 7130 of August 16, 1989).*

*(Sinalevi's Note: By means of Article 2 paragraph II) of the law that approves the Family Procedural Code, No. 9747 of October 23, 2019, this numeral will be amended. Pursuant to transitory III of the aforementioned law, said amendment will enter into force as of October 1, 2022, so that as of that date the new text will be as follows: "Article 9- Domicile and habitual residence. For the purposes of international family law, the natural person has his domicile in the State in which he resides with the intention of settling therein and his habitual residence in the State in which he has his social circle of life for a prolonged period of time.*

*A person cannot have several addresses at the same time. If he/she has no known domicile, he/she is considered to have it where his/her habitual residence is or, failing that, the place where it is located.*

*The domicile of minors is in the State of the domicile of those exercising the attributes of parental responsibility. If the exercise of these attributes is joint in both parents and they are domiciled in different States, the minors are considered domiciled where they have their habitual residence.*

*Without prejudice to the provisions of international conventions, children who have been abducted or wrongfully retained do not acquire domicile in the place where they are abducted, wrongfully removed or retained.*

*The domicile of persons subject to safeguarding or other equivalent institute of protection is the place of their habitual residence.*

*The domicile of persons acting in a diplomatic capacity, as well as of persons temporarily residing abroad for work, study or other reasons, shall be the last one they had in their national territory").*

## Article sheet

### TITLE I

#### On Marriage

### CHAPTER I

#### General Provisions

Article 10.- The betrothal does not produce civil effects.

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### Article sheet

Article 11.- Marriage is the essential foundation of the family and its object is life in common, cooperation and mutual assistance.

### Article sheet

Article 12.- Any condition contrary to the essential purposes of marriage is null and void.

### Article 12 bis.-

### Article 12 bis.-

### Article 12 bis.-

### Article 12 bis.

A simulated marriage is a marital union that, while complying with the formalities of the law, does not have the purpose of fulfilling the essential purposes provided for in this Code.

*(Thus added by Article 1 of Law No. 8781 of November 11, 2009)*

### Article sheet

Article 13.- For marriage to exist, the consent of the contracting parties must be expressed legally and expressly.

### Article sheet

## CHAPTER II

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## Of the Impediments, Revalidations and Dispensation

Article 14.-It is legally impossible to marry:

- 1) Of the person who is bound by a previous marriage.

2) Between ascendants and descendants by consanguinity or affinity.

The impediment does not disappear with the dissolution of the marriage that gave rise to the kinship by affinity.

3) Between blood siblings.

4) Between the adopter and the adopted person and his/her descendants; adopted sons and daughters of the same person; the adopted person and the sons and daughters of the adopter; the adopted person and the former spouse of the adopter; and the adopter and the former spouse of the adoptee.

(Thus amended the previous subsection by Article 2° of Law No. 9406 of November 30, 2016, "Strengthening the legal protection of girls and female adolescents in situations of gender-based violence associated with abusive relationships").

5) Between the perpetrator, co-perpetrator, instigator or accomplice of the crime of homicide of one of the spouses and the surviving spouse.

6) (Annulled by resolution of the Constitutional Chamber *No. 12782 dated August 8, 2018*)

7) Of a person under eighteen years of age.

(Thus amended the previous subsection by Article 2° of Law No. 9406 of November 30, 2016, "Strengthening the legal protection of girls and female adolescents in situations of gender-based violence associated with abusive relationships").

(As amended by Article 1 of Law No. 8571 of February 8, 2007)

#### **Article 14 bis.-**

#### **Article 14 bis.-**

#### **Article 14 bis.-**

#### **Article 14 bis.**

The simulated marriage shall be null and void.

(Thus added by article 1 of law No. 8781 of November 11, 2009)

#### **Article sheet**

Article 15.- Marriage may be annulled:

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- 1) In the event that one or both spouses have consented by violence or serious fear, or by mistake as to the identity of the other;
- 2) Of whoever lacks, in the act of entering into it, volitional or cognitive capacity.

*(Thus amended by Article 80 (now 93) of Law No. 7600 of May 2, 1996, "Law on Equal Opportunities for Persons with Disabilities").*

3) *(Repealed by Article 4° of Law No. 8571 of February 8, 2007)*

4) Of the incapable due to absolute or relative impotence, provided that the defect is by its nature incurable and prior to marriage; and

5) When it was celebrated before an incompetent official.

## Article sheet

Article 16.- Marriage is prohibited:

1) *(Repealed by Article 4° of Law No. 9406 of November 30, 2016, "Strengthening the legal protection of girls and female adolescents in situations of gender-based violence associated with abusive relationships").*

2) *(This paragraph was annulled by resolution of the Constitutional Chamber No. 2129 of February 14, 2008).*

3) *(Repealed by Article 4° of Law No. 9406 of November 30, 2016, "Strengthening the legal protection of girls and female adolescents in situations of gender-based violence associated with abusive relationships."); and*

4) Without prior publication or waiver of legal edicts.

*(Thus amended by Article 1 of Law No. 5895 of March 23, 1976).*

## Article sheet

Article 17.- The marriage celebrated in spite of the prohibitions of the preceding article is valid.

## Article sheet

Article 18.- The marriage celebrated by the persons referred to in paragraphs 1) and 2) of Article 15, shall be revalidated without the need for express declaration by the fact that the spouses do not separate during the month following the discovery of the error, the cessation of serious fear or violence, or the recovery of the person's volitional or cognitive capacity.

*(Thus amended by Article 80 (now 93) of Law No. 7600 of May 2, 1996, "Law on Equal Opportunities for Persons with Disabilities").*

## Article sheet

### **Article 19.**

The simulated marriage will not validate any kind of rights or obligations to the contracting parties.

When its nullity is declared, the judge in a declaratory judgment will order the cancellation of the registration, as well as the immigration status and the naturalizations granted, all as a consequence of the simulated marriage.

*(Thus amended by Article 1 of Law No. 8781 of November 11, 2009. This article had previously been repealed in its entirety by Article 4 of Law No. 8571 of February 8, 2007).*

## Article sheet

Article 20.- The marriage of an impotent person shall be revalidated when two years have elapsed without claiming nullity.

## Article sheet

Article 21.- *(Repealed by Article 4° of Law No. 9406 of November 30, 2016, "Strengthening the legal protection of girls and female adolescents in situations of gender violence associated with abusive relationships").*

## Article sheet

Article 22.- *(Repealed by Article 4° of Law No. 9406 of November 30, 2016, "Strengthening the legal protection of girls and female adolescents in situations of gender violence associated with abusive relationships").*

## Article sheet

## CHAPTER III

### On the Civil Effects of Catholic Marriage

Article 23.- The marriage celebrated by the Roman Catholic, Apostolic and Roman Church subject to the provisions of this Code shall have civil effects. The Ministers who celebrate it are subject to the provisions of Chapter IV of this Title as applicable, for which they shall be considered public officials.

## Article sheet

### CHAPTER IV

#### Celebration of Civil Marriage

Article 24.- The marriage shall be celebrated before the authority of the jurisdiction where either of the contracting parties has resided during the last three months. Such authorities shall be a Civil Judge or a Civil Mayor, or the Governor of the Province.

*(The last part of the preceding paragraph was repealed by section e) of Article 98 (now 120) of Law No. 7410 of May 26, 1994, "General Police Law").*

Notaries public are authorized to celebrate marriages throughout the country. The corresponding act will be recorded in their protocol and they must keep the respective copy in the reference protocol. The contracting parties may resort to the judicial or administrative officials indicated, or to a Notary Public, for the procedures prior to the celebration.

Judicial or administrative officials may not charge fees for the marriages they perform.

The official before whom a marriage is celebrated is obliged to send all the antecedents and minutes of the marriage or certification thereof, to the Civil Registry.

When a person who celebrates a marriage does not observe the provisions of this Code, the Civil Registry shall report it to the corresponding superior, so that he may impose the appropriate sanction and, in any case, to the competent criminal court.

*(Sinalevi's Note: By means of Article 2 paragraph II) of the law that approves the Family Procedural Code, No. 9747 of October 23, 2019, this numeral will be amended. Pursuant to Transitory III of the aforementioned law said amendment will come into effect as of October 1, 2022, so that as of that date the new text will be as follows: "Article 24- Civil Marriage. Celebration. In addition to the case of the previous article, the marriage may be celebrated before the head authorities of the central or regional offices of the Civil Registry or before notaries public. The former may not charge fees for their actions. In the case of the latter, the corresponding act shall be recorded in their protocol and they shall keep the respective copy in the reference protocol, having to send all the background information and documents required to the parties, the notarial testimony and the copy of the act in the forms provided by the Civil Registry to this institution, within eight days following the celebration of the marriage for its registration. Both officials shall be subject to the corresponding disciplinary and penal regime").*

## Article sheet

Article 25.- Those who wish to contract marriage shall declare it verbally or in writing to the corresponding official, necessarily expressing their names, surnames, age, profession or trade, place of birth and name of the places of their residence or domicile during the last three months; and the names, surnames, nationality and general information of their parents.

The declaration shall be signed by the interested parties or by another person at the request of the person who does not know how or is unable to sign. It shall be ratified orally if it is formulated in writing; and the official shall order its publication by means of an edict in the "Judicial Gazette".

The contracting parties must indicate the names of the children procreated by them before the marriage, if any. This statement must be recorded in the marriage certificate.

#### Article sheet

Article 26.- Between the edict and the celebration of the marriage, there must be an interval of at least eight calendar days, and if after the publication of said edict, six months elapse without the celebration of the marriage, a new publication shall be made.

#### Article sheet

Article 27.- If, in the judgment of the celebrant, a legal impediment is proven, the celebrant shall suspend the celebration of the marriage until the impediment is legally dispensed.

#### Article sheet

Article 28.- The authorized official shall not celebrate any marriage until they are presented to him/her:

- 1) Two suitable witnesses who will testify under oath as to the freedom of state and legal capacity of the contracting parties;
- 2) *(Repealed by Article 4° of Law No. 9406 of November 30, 2016, "Strengthening the legal protection of girls and female adolescents in situations of gender-based violence associated with abusive relationships")*.
- 3) The certification of the entries of birth and freedom of state of the contracting parties, issued by the Civil Registry. The foreigner will be able to demonstrate his freedom of state by any means that deserves faith to the official, in defect of the previously mentioned documents; and
- 4) Certification of the date of the dissolution of the previous marriage if the contracting party had been married before.

*(Thus amended by the Constitutional Chamber Resolution No. 2129 of February 14, 2008) (Thus amended by Article 1 of Law No. 5895 of March 23, 1976).*

## Article sheet

Article 29.- In case of danger of death of one of the contracting parties, the celebration of the marriage may proceed even without fulfilling the requirements of the preceding articles; but as long as these requirements are not fulfilled, neither of the interested parties may claim the civil rights deriving from that marriage.

## Article sheet

Article 30.- The marriage may be celebrated by means of an attorney-in-fact with a very special power of attorney, recorded in a public deed and expressing the name and general information of the person with whom the marriage is to be celebrated; but the other contracting party must always attend the celebration in person.

There will be no marriage if the power of attorney was already legally revoked at the time of the celebration.

*(Sinalevi's Note: By means of Article 2 paragraph II) of the law that approves the Family Procedural Code, No. 9747 of October 23, 2019, this numeral will be amended. Pursuant to transitory III of the aforementioned law said amendment will come into effect as of October 1, 2022, so that as of that date the new text will be as follows: "Article 30- Marriage. Impossibility of marriage by proxy. Under no circumstances shall a marriage by proxy of either of the contracting parties take place.*

*Officials or the notary public celebrating marriages shall give public record and faith that the act was attended by both parties at the same time").*

## Article sheet

The marriage shall be celebrated before the competent official and in the presence of two witnesses of legal age who can read and write.

The contracting parties must express their willingness to be joined in marriage, after which the official shall declare that they are married.

A record of the proceedings shall be drawn up and signed by the official, the contracting parties, if they are able, and the witnesses of the act.

The contracting parties will be given a copy of the minutes signed by the official.

The official must send within eight days of the celebration of the marriage, a copy of the authorized of said act and the documents required in Article 28 of the Civil Registry.

*(Sinalevi's Note: By means of Article 2 paragraph II) of the law that approves the Family Procedural Code, No. 9747*

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*of October 23, 2019, this numeral will be reformed. Pursuant to Transitory III of the aforementioned law said*

*The amendments shall be effective as of October 1, 2022, and therefore, as of that date, the new text shall be as follows: "Article 31- Marriage. Requirements. The marriage, once the authority that will celebrate it and its competence have been established, shall be verified before two witnesses of legal age, the contracting parties shall express their will to contract marriage and the official shall declare them united in marriage; of all of which a record shall be drawn up and signed by the contracting parties and the witnesses together with the official, and a copy of it shall be delivered to the former.").*

#### Article sheet

Article 32.- The official before whom the pre-marriage proceedings are processed may, under his responsibility, dispense with the publication of the edict referred to in Article 25, if it appears from the documents presented to him that the contracting parties are not impeded from contracting marriage.

#### Article sheet

### CHAPTER V

#### Effects of Marriage

Article 33.- The marriage shall take effect as soon as it is celebrated and shall be registered in the Civil Registry.

#### Article sheet

Article 34.- The spouses share the responsibility and government of the family. Together they must regulate domestic affairs, provide for the education of their children and prepare for their future. Likewise, they are obliged to respect each other, to be faithful to each other and to help each other. They must live in the same household unless reasons of convenience or health for one of them or the children justify different residences.

#### Article sheet

Article 35- Obligation to proportionally cover the expenses of the family Both spouses are responsible for covering the needs and expenses of the family and each one shall respond proportionally according to his or her aptitudes, possibilities and economic income, as well as the obligation for both to share the domestic and care work, and the parental responsibility for the children and dependent family members.

The spouse who performs, exclusively or in a greater proportion than the other spouse, unpaid domestic work in the home and the care of children or dependent family members shall be entitled to have such work

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considered as his/her economic contribution to the support of the home in the corresponding proportion.

The same provisions shall apply to de facto unions.

*(As amended by the sole article of Law No. 9765 of October 29, 2019)*

#### Article sheet

Article 36.- *(Repealed by Article 4° of Law No. 9406 of November 30, 2016, "Strengthening the legal protection of girls and female adolescents in situations of gender-based violence associated with abusive relationships").*

#### Article sheet

## CHAPTER VI

### Family Property Regime

Article 37.- Marital contracts may be granted before the celebration of the marriage or during its existence, and shall cover present and future assets. This agreement, in order to be valid, must be recorded in a public deed and registered in the Public Registry.

#### Article sheet

Article 38.- *(Repealed by Article 4° of Law No. 9406 of November 30, 2016, "Strengthening the legal protection of girls and female adolescents in situations of gender violence associated with abusive relationships").*

#### Article sheet

Article 39.- Marriage contracts may be modified after marriage. If there are minors, it must be with the authorization of the Tribunal.

The change will not be prejudicial to third parties until after an extract of the deed has been published in the official newspaper and the deed has been registered in the Public Registry.

#### Article sheet

If there are no marriage contracts, each spouse remains the owner and freely disposes of the property he/she had at the time of marriage, of the property he/she acquires during the marriage by whatever title, and of the fruits of both.

## Article sheet

Article 41.- Upon dissolution or declaration of nullity of the marriage, upon declaration of judicial separation and upon celebration, after the nuptials, of marriage contracts, each spouse acquires the right to participate in one half of the net value of the marital property ascertained in the patrimony of the other spouse. Such assets will be considered encumbered as of right, as of the declaration as a result of the respective liquidation. The courts, ex officio or at the request of a party, shall order the annotation of the claims on community property in the Public Registries, apart from the registration of the registered assets, as well as the inventories that they consider pertinent.

*(Thus amended by the sole article of Law No. 7689 of August 21, 1997).*

The anticipated liquidation of community property may be carried out when the Court, at the request of one of the spouses, establishes beyond doubt that the interests of the latter are in danger of being jeopardized by the mismanagement of his or her spouse, or by acts that threaten to circumvent it. Only the following assets, on which the right of participation does not exist, are not community property.

- 1) Those that were introduced to the marriage, or acquired during it, by gratuitous title or by random cause;
- 2) Those purchased with one of the spouses' own securities, intended for that purpose in the marriage contracts;
- 3) Those whose cause or title of acquisition preceded the marriage;
- 4) The movable or immovable property, which was subrogated to other property of one of the spouses; and
- 5) Those acquired during the de facto separation of the spouses.

It is allowed to renounce, in the marriage contracts or in an agreement to be made in a public deed, to the advantages of the final distribution.

*(Thus amended by Article 1 of Law No. 5895 of March 23, 1976)*

*(Sinalevi's Note: By means of Article 2 paragraph II) of the law that approves the Family Procedural Code, No. 9747 of October 23, 2019, this numeral will be amended. Pursuant to transitory III of the aforementioned law, said amendment will come into effect as of October 1, 2022, therefore, as of that date, the new text will be as follows: "Article 41- Regime of community property. Upon dissolution or declaration of nullity of the marriage, upon declaration of judicial separation and upon celebration, after the nuptials, of marriage contracts, each spouse acquires the right to participate in half of the net value of the marital property ascertained in the patrimony of the other spouse. Such assets will be considered encumbered as of right, as of the declaration as a result of the respective liquidation.*

*An early liquidation of community property may be carried out when the court, at the request of one of the spouses, establishes beyond doubt that the interests of the latter are at risk of being jeopardized by the bad faith of the other spouse,*

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*or when the court finds that the interests of the former are at risk of being jeopardized by the bad faith of the latter.*

*management of his spouse or by acts that threaten to circumvent it. Only, the following assets, on which there is no right of participation, are not community property:*

- 1) Those that were introduced to the marriage, or acquired during it, by gratuitous title or by random cause.*
- 2) Those purchased with one of the spouses' own securities, intended for that purpose in the marriage contracts.*
- 3) Those whose cause or title of acquisition preceded the marriage.*
- 4) The furniture or real estate that were subrogated to others owned by one of the spouses.*
- 5) Those acquired during the de facto separation of the spouses.*

*The advantages of the final distribution may be waived in the marital contracts or in an agreement to be made in a public deed.*

*The parent who has the personal care of the minor children, and it is an immovable property used as a family dwelling, will have preference for the payment of the amount that corresponds as community property. The same rule will be applied when such property is in joint ownership").*

## **Article sheet**

Article 42.- (Affectation of the family property, privileges).

The property destined for family habitation, when so recorded in the Public Registry, may not be alienated or encumbered except with the consent of both spouses, if the owner is married; or by judicial disposition, at the request of the owner, upon proof, in the latter case, of the usefulness and necessity of the act.

Nor may it be pursued by personal creditors of the owner, except in the case of collection of debts contracted by both spouses, or by the owner prior to the registration referred to in the following article.

In the case of rights created under the Special Regime for Social Interest Housing authorized by law, the duration of the family housing regime will be at least ten years.

*(Thus added the previous paragraph by Article 8 of the Law "Creation of a second family housing voucher authorizing the subsidy of the family voucher in first and second construction", No. 8957 of June 17, 2011).*

*(Thus amended by Article 28 (now 31) of the "Law for the Promotion of Women's Social Equality, No. 7142 of March 8, 1990).*

## **Article sheet**

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#### Article 43- Manner of making the assignment, registration, effects, tax exemption

The owner will make the assignment in favor of his spouse or cohabitant, in the case of de facto union, of the minor or adult sons and daughters, the latter as long as they require food. Also, in favor of those adult persons who cannot satisfy, by their own means, their basic needs and who fulfill all the following requirements:

- a) Belonging to the family group.
- b) Inhabit the property.
- c) Who have a disability that requires permanent and generalized supports, or who are in old age.

Both the assignment and its cessation must be made in a public deed and recorded in the corresponding registry, and shall be effective from the date of its registration. The assignment and its cessation shall not be subject to the payment of taxes or registration fees.

*(As amended by Article 1 of the Law for the Extension of the Protection of Family Assets, No. 9580 of June 12, 2018)*

#### Article sheet

Article 44.- The transfer made inter vivos or mortis causa of the property affected pursuant to Article 42 in favor of the spouse, of one or more children, shall be exempt from the payment of charity, donations and University Stamp taxes, up to the amount of three hundred thousand colones.

(Thus amended by Article 1 of Law No. 5895 of March 23, 1976).

#### Article sheet

Article 45.- The Public Registry shall not register any deed in violation of the provisions of this Chapter.

#### Article sheet

Article 46.- The benefits and privileges of the four preceding articles shall be granted to urban real estate with an area of not more than one thousand square meters, or to rural real estate whose extension does not exceed ten thousand square meters. Likewise, to the rural plot destined to the subsistence of the family, as long as it does not exceed this last extension. In case of undivided rights, they must be previously located, in accordance with the law.

*(Thus amended by Article 1 of Law No. 5895 of March 23, 1976).*

## Article sheet

Article 47.- (Cessation of the assignment). The assignment shall cease:

- a) By mutual agreement of the spouses or common-law partners.
- b) Due to the death of the beneficiaries or due to the cessation of the maintenance obligation with the adult sons and daughters. Persons with disabilities and who require permanent and generalized support or the elderly, when the situation of economic dependence is overcome.

*(Thus amended by Article 2 of the Law for the Extension of the Protection of Family Assets, No. 9580 of June 12, 2018)*

- c) By judicially declared separation or divorce. In this case, continuation may be provided for as long as there are entitled beneficiaries.

ch) By court order, at the request of the owner, once the usefulness or necessity of the disaffectation has been proven, based on criteria of reasonableness and proportionality and in favor of the beneficiaries.

*(Thus amended by Article 2 of the Law to Expand the Protection of Family Patrimony, No. 9580 of June 12, 2018)*

- d) When in fact the property ceases to serve as a family dwelling or small farm, after verification before the Court by means of summary proceedings.

*(Thus amended by Article 28 (now 31) of the "Law for the Promotion of Women's Social Equality", No. 7142 of March 8, 1990).*

## Article sheet

### CHAPTER VII

#### **Divorce**

Article 48.-It shall be a ground for decreeing a divorce:

- 1) Adultery by either spouse;
- 2) An attempt by one of the spouses against the life of the other spouse or their children;
- 3) The attempt by one spouse to prostitute or corrupt the other spouse and the attempt to corrupt or corrupt the children of either spouse;

4) Severity to the detriment of the other spouse or their children;

5) Judicial separation for a term of not less than one year, if during that period there has been no reconciliation between the spouses;

*(Thus amended in accordance with the partial annulment ordered by resolution of the Constitutional Chamber No. 3951 of February 24, 2010).*

6) The absence of the spouse, legally declared; and

7) Mutual consent of both spouses.

Divorce by mutual consent shall be submitted to the Court the agreement in public deed in the form indicated in Article 60 of this law. The agreement and the separation, if they are appropriate and do not prejudice the rights of the minors, shall be approved by the Court in a considered resolution; the Court may request that the agreement presented be completed or clarified if it is omitted, obscure in the points indicated in this article prior to its approval.

*(Thus amended by Article 1 of Law No. 5895 of March 23, 1976)*

*(Thus amended by resolution of the Constitutional Chamber No. 16099-08 of October 29, 2008).*

8) De facto separation for a term of not less than three years.

*(Thus added by Article 2 of the Law "Adiciona Código de Familia para Regular la Unión de Hecho", No. 7532 of August 8, 1995).*

8) The request of one of the parties in view of the incompatibility of characters to be able to live together, after six months from the celebration of the marriage.

*(Thus added the previous paragraph by article 1° of the Law for the vindication of the autonomy of the will in the divorce process, No. 9823 of March 3, 2020. Note that there is already a subsection (8)).*

*(Sinalevi's Note: By means of Article 2 paragraph II) of the law that approves the Family Procedural Code, No. 9747 of October 23, 2019, this numeral will be amended. Pursuant to Transitory III of the aforementioned law said amendment will come into effect as of October 1, 2022, so as of that date the new text will be as follows: "Article 48-Divorce. Grounds. It shall be grounds for decreeing a divorce:*

*1) Adultery by either spouse.*

*2) An attempt by one of the spouses against the life of the other spouse or their children.*

*3) The attempt by one spouse to prostitute or corrupt the other spouse and the attempt to corrupt or corrupt the children of either spouse.*

*4) Severity to the detriment of the other spouse or their children.*

*5) Judicial separation for a period of not less than one year, if during that period there has been no reconciliation.*



6) *The absence of the legally declared spouse.*

7) *De facto separation for a period of not less than three years.*

*Divorce may also be decreed by mutual consent of the spouses, for which purpose the spouses, personally or only one of them by means of a very special proxy given in a public deed, must execute a divorce agreement in a public deed containing the following points:*

a) *To whom corresponds the personal custody of the common minor children.*

b) *Which of the spouses assumes the obligation to support said children and the proportion in which they are obligated.*

c) *The establishment of the right or not of alimony obligation between the spouses and the amount in which they are obligated.*

d) *Decision on the ownership and distribution of the assets held in the estate of each spouse.*

*In the case of marriages in which there are no common minor children or assets referred to in the agreement, the deed shall be submitted directly to the Civil Registry for approval and registration. If there are minor children or assets referred to in the agreement, the procedure will be verified judicially in accordance with the Family Procedural Code.*

*The aforementioned agreement must be presented before the judicial authority within three months after its notarized execution, unless the presentation is made jointly by the spouses, and it will take effect once it has been approved in the corresponding judicial or administrative proceeding.*

*The agreed upon rights and provisions relating to children may be modified by the court at the time of its approval.").*

## **Article sheet**

Article 48 bis.- In the event of dissolution of the marriage bond, based on any of the grounds set forth in paragraphs 2), 3) and 4) of Article 48 of this Code, the innocent spouse may request, jointly with the action for separation or divorce, damages in accordance with Article 1045 of the Civil Code.

*(So added by the sole article of Law No. 7689 of August 21, 1997)*

## **Article sheet**

Article 49-The action for divorce may only be brought by the innocent spouse, except in the cases of the causes of de facto separation and subsection (8) of Article 48, in which it may be brought by either spouse. The suit must be brought within one year from the time the plaintiff has knowledge of the facts giving rise thereto.

In cases of judicially declared absence, the action may be brought by the spouse present at any time. For these purposes, the Court shall appoint a guardian *ad litem* for the defendant.

*(As amended by Article 2 of the Law for the vindication of the autonomy of will in divorce proceedings, No. 9823 of March 3, 2020).*

#### Article sheet

Article 50.- The death of either of the spouses terminates the divorce proceeding.

#### Article sheet

Article 51.- The reappearance of the absent person does not revive the dissolved marriage bond.

#### Article sheet

Article 52.- Divorce does not proceed if there has been reconciliation or marital life between the spouses after the knowledge of the facts that could have authorized it, or after the petition; but if a new divorce action is attempted for cause supervening the reconciliation, the Court may take into account the previous causes.

#### Article sheet

*(Sinalevi's Note: By means of article 4 paragraph II) of the law that approves the Family Procedural Code, No. 9747 of October 23, 2019, this numeral will be repealed. In accordance with transitory III of the aforementioned law, said modification will enter into force as of October 1, 2022, therefore, as of that date the respective repeal will be made).*

Article 53.- Once the divorce is requested, the Court may authorize or order either of the spouses to leave the conjugal domicile.

#### Article sheet

*(Sinalevi's Note: By means of Article 4 paragraph II) of the law approving the Family Procedural Code, No. 9747 of October 23, 2019, this numeral will be repealed. Pursuant to Transitory III of the aforementioned law said*

*The amendment will become effective as of October 1, 2022, and therefore, as of that date, the respective repeal will be made).*

At the request of the parent or of the National Child Welfare Agency, the Court shall decide to which of the spouses, person, relative or appropriate institution the provisional care of the children shall be left.

*(Thus amended by Article 219, paragraph 1) of the Code of Contentious Administrative Procedure, No. 8508 of April 28, 2006, in the sense that references to the participation of the Office of the Attorney General of the Republic in non-contentious judicial activities are eliminated.)*

## Article sheet

Article 55.- The final judgment of divorce dissolves the marriage bond.

## Article sheet

Article 56- Guardianship, upbringing and education, lack of parental capacity to exercise them, family interrelation, alimony and res judicata.

When declaring the divorce or judicial separation, the Court shall finalize the custody, upbringing and education of the minor sons and daughters, taking into account the agreement, the physical and moral aptitudes and the capacities of the father and mother, in accordance with the best interests of the minor. Likewise, the best interests of the minor children shall be taken into account.

However, if none of the parents is able to exercise them, the sons and daughters will be entrusted to a suitable person of their family and affective circle or, failing that, as a last resort and for the shortest possible time, to a specialized institution, who will assume the functions of guardianship. The Court shall also adopt the necessary measures concerning family relations between fathers, mothers, sons and daughters, taking care not to separate brothers and sisters, in accordance with article 152 of this Code and article 35 of Law No. 7739, Childhood and Adolescence Code, of January 6, 1998.

Regardless of the person or institution in whose care the children are left, fathers and mothers are obliged to cover the expenses required for their care, upbringing and education, in accordance with the provisions of paragraph 35 of this Code.

The decision made in accordance with the provisions of this article does not constitute res judicata and the Court may modify it according to the convenience of the sons and daughters or due to a change of circumstances.

*(As amended by Article 1 of Law No. 9781 of November 12, 2019, "Family Interrelationship Regime").*

## Article sheet

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Article 57.- In the judgment declaring the divorce, the court may grant the spouse found not guilty an alimony to be paid by the guilty party. The court shall have the same power when the divorce is based on a judicial separation where there was a guilty spouse.

This pension shall be regulated in accordance with the provisions on alimony and shall be revoked when the innocent person remarries or establishes a common-law marriage.

If there is no spouse at fault, the court may award alimony to one spouse and at the expense of the other, depending on the circumstances.

The claim for alimony of the innocent ex-spouse who remarries or cohabits in a common-law marriage shall not be admissible.

*(As amended by Article 65 of the "Law on Alimony Pensions", No. 7654 of December 19, 1996).*

## Article sheet

### CHAPTER VIII

#### Judicial Separation

Article 58.- There are grounds for decreeing the judicial separation between spouses:

- 1) Any of those that authorize divorce;
- 2) The voluntary and malicious abandonment that one of the spouses makes of the other;
- 3) The unfounded refusal of one of the spouses to fulfill the duties of assistance and food to the other or to the common children;
- 4) Serious offenses;
- 5) The mental derangement of one of the spouses that lasts for more than one year or other illness or serious behavioral disorders of one of the spouses that make life together impossible or dangerous;
- 6) Either spouse has been sentenced to imprisonment for three or more years for a crime that is not a political crime. The action may only be established provided that the sentenced person has been imprisoned for a consecutive period of not less than two years;
- 7) The mutual consent of both spouses; and

*(Sinalevi's Note: By means of article 4 paragraph II) of the law that approves the Family Procedural Code, No. 9747 of October 23, 2019, the previous paragraph will be repealed. In accordance with transitory III of the aforementioned law, said modification will enter into force as of October 1, 2022, so as of that date the respective abrogation will be made).*

8) The de facto separation of the spouses during a consecutive year, occurring after two years of verified marriage.

#### Article sheet

Article 59.- The action of separation may only be established:

- 1) By the innocent spouse in the case of paragraphs 1), 2), 3) and 4) of the preceding article; and
- 2) By either of the spouses in the cases expressed in paragraphs 5), 6), 7) and 8) of the aforementioned article.

Such actions shall expire within a term of two years, except for those based on paragraphs 2), 3), 5) and 8) above. This term will run from the date on which the spouses had knowledge of the facts.

(Thus amended by Article 1 of Law No. 5895 of March 23, 1976).

#### Article sheet

Article 60- Divorce or separation agreement as to spouses and domestic partners

Divorce or judicial separation of the spouses may be decreed by mutual consent, in accordance with the procedure established in the Family Procedural Code.

The request for divorce or judicial separation shall be presented to the Court by means of an agreement signed in public deed by both spouses; document in which the following points must be mentioned:

- a) The establishment of the right or not of alimony obligation between the spouses and the amount in which they are obligated.
- b) The distribution of the property of the community property in the estate of the spouses.
- c) In case of having minor sons or daughters, to the provisions set forth in Article 152 of this Code.

These same provisions shall be applicable in the event of a de facto union separation agreement, as stipulated in Article 242 of the present Code.

The agreement will not be effective for its homologation, if it is not presented before the judicial office within three months after its notarized execution.

[http://www.pgrweb.go.cr/scij/busqueda/normativa/normas/nrm\\_texto\\_completo.aspx?nValor1=1&nValor2=970](http://www.pgrweb.go.cr/scij/busqueda/normativa/normas/nrm_texto_completo.aspx?nValor1=1&nValor2=970)

The agreement, if it is appropriate and does not prejudice the rights of the minor sons and daughters, shall be approved by the Court in a reasoned resolution within fifteen working days. The Court may request that the agreement presented be completed or clarified, if it is omitted or confusing in the points indicated in this article prior to its approval.

*(As amended by Article 1 of Law No. 9781 of November 12, 2019, "Family Interrelationship Regime").*

*(Sinalevi's Note: By means of Article 2 paragraph II) of the law that approves the Family Procedural Code, No. 9747 of October 23, 2019, this numeral will be reformed. Pursuant to transitory III of the aforementioned law said modification will come into effect as of October 1, 2022, so that as of that date the new text will be as follows: "Article 60- Separation by mutual consent. The judicial separation of the spouses may be decreed by mutual consent, for which the same rules established in Article 48 of this Code for divorce by mutual consent shall be followed as to the forms of granting the agreement, its content and the administrative and judicial procedures that correspond according to the existence or not of minor children and assets referred to in the agreement, except that in the third point of the content of such agreement it should not be established whether or not the right to alimony is maintained, but only, if so agreed, refer to the amount of alimony to which one or the other spouse is obliged.")*

## Article sheet

Article 61.- The provisions for divorce shall also be observed for judicial separation insofar as they are applicable and do not contradict the provisions of this Chapter.

## Article sheet

Article 62.- The effects of separation are the same as those of divorce, with the difference that the former does not dissolve the bond; the duty of fidelity and mutual assistance subsists.

## Article sheet

Article 63.- The reconciliation of the spouses terminates the trial if it has not been concluded and renders null and void the judgment declaring the separation. In both cases the spouses shall make it known jointly. As far as assets are concerned, the provisions of the decision, if any, shall be maintained.

## Article sheet

# CHAPTER IX

## Nullity of Marriage

Article 64.- The nullity of marriage, provided for in Article 14 of this Law, shall be declared ex officio. The Civil Registry shall not register the marriage of persons under eighteen years of age.

*(Thus amended the preceding paragraph by Article 2° of Law No. 9406 of November 30, 2016, "Strengthening the legal protection of girls and female adolescents in situations of gender-based violence associated with abusive relationships").*

In the case of simulated marriage, the nullity may also be requested by either of the spouses, the director of the Civil Registry, the director of the General Directorate of Immigration and Foreigners or by any person harmed by the marriage. Both institutions must file the corresponding jurisdictional action, under the representation of the Attorney General's Office of the Republic.

*(The preceding paragraph was added by Article 1 of Law No. 8781 of November 11, 2009)*

*(As amended by article 1 of Law No. 8571 of February 8, 2007)*

## Article sheet

Article 65.- The nullity of marriages referred to in Article 15 may be sued for:

*(Thus amended by Article 80 (now 93) of the "Law on Equal Opportunities for Persons with Disabilities", No. 7600 of May 2, 1996).*

- a) In the event that one or both spouses have consented by mistake, violence or serious fear, by the contracting party victim of error, violence or serious fear;
- b) At the celebration of the marriage of any person lacking volitional or cognitive capacity, by the spouse who does not lack volitional or cognitive capacity and by the parents or guardian of the person lacking volitional or cognitive capacity.

*(As amended by Article 80 (now 93) of the "Law on Equal Opportunities for Persons with Disabilities", No. 7600 of May 2, 1996).*

*c) (This subsection was repealed by Article 4 of Law No. 8571 of February 8, 2007).*

d) In the case of relative impotence, by either of the spouses; and in the case of absolute impotence, only by the spouse who does not suffer from it; and

e) In the case of celebration before an incompetent official, either of the contracting parties.

## Article sheet

Article 66.- A marriage declared null or annulled produces all the civil effects in favor of the spouse who acted in good faith and of the children and the consequences that this Code establishes to the detriment of the spouse who acted in bad faith.

Good faith is presumed unless there is evidence to the contrary, and in no case shall the nullity of the marriage be prejudicial to a third party except from the date on which the declaration is entered in the Register.

#### Article sheet

Article 67.-*(Repealed by subsection 2) of Article 219 of Law No. 8508 of April 28, 2006, "Contentious-Administrative Procedural Code").*

#### Article sheet

Article 68.- The provisions for divorce and judicial separation shall also be observed with respect to the nullity of marriage insofar as applicable and not contrary to the provisions of this Chapter.

#### Article sheet

## TITLE II

### Paternity and Filiation

#### CHAPTER I

##### Children of Marriage

Children born after one hundred and eighty days counted from the celebration of the marriage or from the reunion of the judicially separated spouses, and also those born within three hundred days following the dissolution of the marriage or the judicially decreed separation of the spouses, shall be presumed to have been born in the marriage.

Children born within one hundred and eighty days after the celebration of the marriage are also presumed to be children of the marriage, when any of the following circumstances are present:

- a) If the husband, before marriage, had knowledge of his wife's pregnancy;
- b) If, being present, he consented to the child being considered as his own in the birth certificate registered in the Civil Registry; and
- c) If he admitted it as such anyway.



### Article sheet

Article 70.- Contrary to the presumption of the preceding article, it is admissible to prove that it was impossible for the husband to have a fertile cohabitation with his wife at the time when the conception of the child took place.

The adultery of the wife does not by itself authorize the husband to disown the child; but if he proves that there was adultery during the time when the conception of the child took place, evidence of any other facts conducive to prove his non-paternity will be admitted.

### Article sheet

Article 71.- A child born out of wedlock shall be deemed to be a child born after three hundred days of the de facto separation of the spouses, who has not had a notorious possession of state on the part of the husband.

The declaration, by trial, shall be made by the Court at the request of the mother or the child, or whoever represents to it.

### Article sheet

The paternity of children born in wedlock can only be contested by the husband personally or by a very special proxy, and when the husband is dead or declared absent, by his heirs in the cases provided for in Article 74, except as provided in the preceding Article.

The curator, in cases of prolonged or incurable mental incapacity of the husband, may exercise the action of impugnation, prior legal medical study in which the mental state of the husband is clearly established.

The artificial insemination of the wife with the husband's semen, or of a third party with the consent of both spouses, shall be equivalent to cohabitation for the purposes of filiation and paternity. Said third party does not acquire any right or obligation inherent to such qualities.

### Article sheet

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Article 73.- The husband's action to contest paternity may be brought at any time and shall be brought in the ordinary proceedings. The exception is the case in which the child is in notorious possession of the state,

in which case the action must be brought within one year from the date on which the husband became aware of the facts that serve as the basis for the challenge. This term does not run against the mentally incompetent husband who lacks a curator.

*(Thus amended by Article 1 of Law No. 5895 of March 23, 1976).*

#### **Article sheet**

Article 74.- If the husband dies before the expiration of the term in which he may disown the child, his heirs may do so. The action of the heirs shall not be admitted after two months counted from the day on which the son entered into possession of the property of the presumed father, or from the day on which the heirs were disturbed in the possession of the inheritance by the presumed son.

*(Thus amended by Article 1 of Law No. 5895 of March 23, 1976).*

#### **Article sheet**

Article 75.- A child born after three hundred days from the dissolution of the marriage, or from the judicially decreed separation of the spouses or from the declaration of absence of the husband, shall be deemed to have been born out of wedlock, unless there is proof to the contrary.

#### **Article sheet**

The right of the children to vindicate the status that belongs to them is imprescriptible. Upon the death of the children, this right passes to the grandchildren and is also imprescriptible with respect to them.

#### **Article sheet**

Article 77.- The heirs of the children or of the grandchildren, as the case may be, may continue the pertinent actions of vindication; and they may only begin them if the child or grandchild dies before reaching the age of majority, or if upon reaching it he or she is mentally incapacitated and dies in that state.

The action of the heirs prescribes in four years, counted from the death of the child or grandchild.

#### **Article sheet**

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There can be no transaction or compromise in arbitration on filiation, but there can be transaction or arbitration on the pecuniary rights that can be deduced from the legally declared filiation, without the concessions that are made to the one who claims to be a son, implying the acquisition of that status, nor those made by the latter implying the renunciation of his filiation.

The transaction or compromise in the case of minors or other incapable persons requires the approval of the Court.

#### Article sheet

### CHAPTER II

#### Proof of Sonship of Children of Marriage

Article 79.- The filiation of children born in marriage shall be proved by the birth certificates, registered in the Civil Registry. In the absence thereof or if they are incomplete or false, filiation shall be proved by the notorious possession of state or by any other ordinary means of proof.

#### Article sheet

Article 80.- The notorious possession of the child's status consists in the fact that his parents have treated him as such, giving him their surnames, providing for his maintenance and presenting him with that character to third parties; and these and the neighborhood of his residence, in general, have considered him as their child.

#### Article sheet

### CHAPTER III

#### Filiation of the Children acquired by subsequent Marriage of the Parents

Article 81.- Children procreated by the same parents before marriage, once the marriage is contracted, shall be considered as children of marriage.

The corresponding declaration may be made by the parent or parents jointly in a will, in a public deed, by means of an act drawn up before the Patronato Nacional de la Infancia, in writing addressed to the Civil Registry, or before the official celebrating the marriage in the application for marriage or at the time of the ceremony.

In the absence of the statement referred to in the preceding paragraph, standing shall require a declaration by the Court.

[http://www.pgrweb.go.cr/scij/busqueda/normativa/normas/nrm\\_texto\\_completo.aspx?nValor1=1&nValue2=970](http://www.pgrweb.go.cr/scij/busqueda/normativa/normas/nrm_texto_completo.aspx?nValor1=1&nValue2=970)

## Article sheet

If the marriage referred to in the preceding article is declared null and void, the children shall maintain their status as matrimonial children.

## Article sheet

Article 83: The quality of child acquired in accordance with Article 81 takes effect from the day of conception and benefits even the descendants of the children dead at the time of the celebration of the same.

## Article sheet

### CHAPTER IV

#### Children born out of wedlock

#### **Article 84.- Recognition through regular proceedings.**

All children born out of wedlock, whose paternity is not recorded in the Civil Registry may be recognized by their parents; likewise, unborn children and dead children.

The recognition must be made before the Civil Registry, the National Child Welfare Agency or a notary public, provided that both parents appear in person or that the mother has given her express consent. The notary public must send the respective act to the Civil Registry within the following eight working days.

*(As amended by Article 1 of Law No. 7538 of August 22, 1995)*

*(Sinalevi's Note: By means of article 2 paragraph II) of the law that approves the Family Procedural Code, No. 9747 of October 23, 2019, this numeral will be amended. In accordance with transitory III of the aforementioned law, said modification will come into effect as of October 1, 2022, so that as of that date the new text will be as follows: "Article 84- Administrative recognition of paternity. All children born out of wedlock and whose paternity is not recorded in the Civil Registry may be recognized by their parents; likewise, unborn children and dead children."*

*If the child does not have assigned paternity, the recognition will be made before the Civil Registry or notary public, as long as both parents appear personally or there has been express consent of the mother. The notary public must send the respective act to the Civil Registry within the following eight working days.*

*If the child has a paternity assigned by the registry, due to the presumption of paternity of a father that does not correspond to the biological truth, its recognition may be requested by whoever corresponds before the Civil Registry, according to the administrative procedures contemplated in the organic norms of this institution. If there is a well-founded opposition of the registry father or mother, the matter must be judicially heard by means of the family resolution process of filiation").*

## Article sheet

### **Article 85.- Recognition by trial.**

In a paternity contestation process, the daughter or son still protected by the presumption of paternity mentioned in Article 69 of this Code or the son or daughter whose paternity is recorded in the Civil Registry may be acknowledged; but such acknowledgment shall have effect only when the contestation is declared admissible.

The daughter or son conceived when the mother is married can also be recognized; however, for the recognition to have the consequent legal effects, it is necessary that they have been conceived during the separation of the spouses; that the child is not in notorious possession of the state on the part of the husband and that the recognition has been authorized by a firm judicial resolution. To this effect, whoever wishes to make the recognition will present the corresponding request before the Family Judge of his domicile, so that the act is authorized according to the procedures foreseen in the following articles 796 and concordant articles of the Code of Civil Procedure.

The process will be processed with the intervention of the spouses who appear as father and mother in the Civil Registry, of the executor if an inheritance trial is in process, of the PANI if the son or daughter is a minor, of the son or daughter to be recognized if he or she is an adult.

When the parent indicating the Civil Registry is unknown or cannot be found to notify him/her of the respective hearing, or if his/her whereabouts are unknown, he/she will be notified by means of an edict to be published in the Judicial Gazette.

In the event of opposition by any of the parties mentioned in the third paragraph of this article, the judicial proceedings shall be suspended so that the parties may hear the case in accordance with the abbreviated common procedure provided for in the Code of Civil Procedure.

If there is no opposition, once the aforementioned conditions have been summarily verified, the recognition shall be authorized. The notary or the official shall attest, in the respective deed, that the resolution authorizing it is final and shall indicate the court that issued it and the time and date of that resolution.

*(Thus amended by Article 1 of Law No. 7538 of August 22, 1995)*

*(Sinalevi's Note: By means of article 2 paragraph II) of the law that approves the Family Procedural Code, No. 9747 of October 23, 2019, this numeral will be amended. Pursuant to transitory III of the aforementioned law said amendment will come into effect as of October 1, 2022, so that as of that date the new text will be as follows: "Article 85- Recognition by trial. In a process of paternity contestation or of contestation of*

[http://www.pgrweb.go.cr/scij/busqueda/normativa/normas/nrm\\_texto\\_completo.aspx?nValor1=1&nValue2=970](http://www.pgrweb.go.cr/scij/busqueda/normativa/normas/nrm_texto_completo.aspx?nValor1=1&nValue2=970)

*Paternity acknowledgment may recognize the son or daughter whose registered paternity is sought to be displaced by means of a claim that shall be requested before the end of the reception of evidence and shall be effective only if the main claim for displacement of status is accepted.*

*Both in the cases of the previous article and in the one established in this article, the officer in charge or the judge may request the performance of the scientific test established in article 98 of this Code").*

## **Article sheet**

Article 86.- The acknowledgment may be challenged by the person acknowledged or by whoever has an interest, when it has been made by means of falsehood or error.

In the case of an interested third party, the action must be brought only during the minority of the recognized person.

*(Thus reformed in accordance with the partial annulment ordered by Resolution No. 2002-00151 of January 16, 2002, clarified ex officio by Ruling 2002-01752 of February 19, 2002, in the sense that the unconstitutionality declared therein is only of the second paragraph of the second paragraph. 2002-00151 of January 16, 2002 clarified ex officio by judgment 2002-01752 of February 19, 2002, in the sense that the unconstitutionality declared therein is only of the second paragraph of article 86 of the Family Code and not of its complete text and subsequently by resolution 6813 of April 23, 2008 which provided that: "article 86, second paragraph, of the Family Code is unconstitutional, as it establishes a time limit for the expiration of the paternity challenge claim -until the minor acquires majority- different from that established in article 73 of the same body of law -one year from the moment in which he/she had knowledge of the facts that serve as basis for the challenge, there being notorious possession of the status. Consequently, the expiration period for an interested third party to challenge the recognition of extramarital children who are in notorious possession of their status will be the one established in Article 73, second paragraph, of the Family Code").*

## **Article sheet**

Article 87.- The recognition is irrevocable.

It may not be contested by the heirs of the person who made it.

## **Article sheet**

Article 88.- A child of legal age cannot be recognized without his or her consent. If there has been falsehood or error in the same, he/she may challenge it within two years following the knowledge of that circumstance.

## Article sheet

### **Article 89.- Recognition by will.**

The acknowledgment resulting from a will shall not require the assent of the mother. This acknowledgment shall not lose its legal force even if the will is revoked.

*(Thus amended by Article 1 of Law No. 7538 of August 22, 1995)*

## Article sheet

Article 90.- No acknowledgment shall be admitted when the child already has a filiation established by notorious possession of status.

## Article sheet

### CHAPTER V

#### Paternity and Maternity Statement

Article 91.- It is permitted to the child and his descendants to investigate paternity and maternity.

## Article sheet

Article 92.- The quality of father or mother may be established by the notorious possession of the child's status by the presumed father or mother, or by any other means of proof.

The paternity is presumed of the man who, during the period of conception, has cohabited in a common-law union, in accordance with the provisions of Title VII of this Code.

*(The above paragraph was added by Article 2 of Law No. 7532 of August 8, 1995)*



### Article sheet

Article 93.- The notorious possession of the status of an extramarital child consists in the fact that his presumed parents have treated him as a child, or given him their surnames, or provided for his maintenance, or presented him as a child to third parties, and these and the neighborhood of his residence, in general, have considered him as their child, all circumstances which shall be assessed at the discretion of the Judge.

### Article sheet

Article 94.- The investigation of paternity of the unborn child is allowed.

### Article sheet

Article 95.- The investigation of paternity or maternity, in the case of adult children, may be attempted at any time.

If the parent dies while the child is a minor, the action may be brought even after his death, provided that it is brought before the child reaches the age of twenty-five.

However, in the event that the child finds a document written or signed by the father or mother in which he or she expresses his or her paternity or maternity, he or she may establish his or her action within two years of the appearance of the document, if this occurs after the expiration of the aforementioned terms.

The provisions of this article are without prejudice to the general rules on the statute of limitations of assets.

*(Thus reformed this article in accordance with the partial annulment ordered by resolution of the Constitutional Chamber No. 1894-99 of March 12, 1999).*

### Article sheet

Article 96.-Declaration of paternity and reimbursement of expenses in favor of the mother. When the Court accepts the declaration of paternity, it may condemn in the sentence the father to reimburse to the mother, according to

[http://www.pgrweb.go.cr/scij/busqueda/normativa/normas/nrm\\_texto\\_completo.aspx?nValor1=1&nValue2=970](http://www.pgrweb.go.cr/scij/busqueda/normativa/normas/nrm_texto_completo.aspx?nValor1=1&nValue2=970)

the principles of equity, the pregnancy and maternity expenses of the daughter or son. These items will have a statute of limitations period of ten years.

*(Thus reformed this paragraph in accordance with the partial annulment ordered by resolution of the Constitutional Chamber No. 6401 of May 18, 2011. The same which indicates that: ".the court shall be authorized to sentence the father, including, to reimburse the mother for those expenses of maternity of the son or daughter, duly accredited, after twelve months of the birth provided that they are not covered by the ten-year statute of limitations as provided for." in this article).*

In any case, once paternity has been declared, the maintenance obligation of the father with respect to the daughter or son will go back to the date on which the claim was filed and will be settled in the corresponding maintenance process, through the execution of the sentence.

When the declaration of paternity is made through the administrative procedure before the Civil Registry, the reimbursement of the expenses referred to in the first paragraph shall be processed in the corresponding alimony process.

In order to ensure the payment of retroactive alimony, the competent court in matters of alimony, upon initiating the proceeding, shall order the attachment of assets against the defendant, for a reasonable amount to cover the rights of the beneficiaries. Such attachment shall not require prior deposit or guarantee of any kind.

*(Sinalevi's Note: By means of article 4 paragraph II) of the law that approves the Family Procedural Code, No. 9747 of October 23, 2019, the previous paragraph will be repealed. According to transitory III of the aforementioned law, said modification will enter into force as of October 1, 2022, therefore, as of that date the respective abrogation will be made).*

*(Thus amended by Article 3 of the "Responsible Parenthood Law", No. 8101 of April 16, 2001)*

## Article sheet

Article 97.- By the recognition or declaration of paternity or maternity, the child legally enters to form part of the consanguineous families of its parents, for all purposes.

## Article sheet

Article 98.- In any process of investigation or impugnation of paternity or maternity, scientific evidence is admissible with the purpose of verifying the existence or inexistence of the kinship relationship. This test may be evacuated by the Judicial Investigation Agency of the Supreme Court of Justice or by laboratories duly accredited and recognized by the Supreme Court of Justice, prior opinion of the Judicial Investigation Agency that the expertise is conclusive, reasonably, in one or the other sense. In any case, the evidence will be evaluated in accordance with the scientific conclusion and the rest of the probative material. When, without a reasonable basis, a party refuses to submit to the practice of the evidence ordered by the Court, its conduct may be considered malicious. In addition, this circumstance may be taken as an indication of the veracity of what is intended to be proved with such evidence.

(As amended by the sole article of Law No. 7689 of August 21, 1997)

(Thus amended by Article 1 of Law No. 5895 of March 23, 1976).

## Article sheet

*(Sinalevi's Note: By means of article 4 paragraph II) of the law that approves the Family Procedural Code, No. 9747 of October 23, 2019, this numeral will be repealed. In accordance with transitory III of the aforementioned law, said modification will enter into force as of October 1, 2022, therefore, as of that date the respective repeal will be made).*

Article 98 bis.-**Special process for filiation actions.** In the processes in which filiation is discussed, the following procedural rules shall be observed:

a) Contents of the claim: The statement of claim must necessarily indicate:

1.- The names, surnames, qualities of both parties and the numbers of the identity cards.

*(The Constitutional Chamber by resolution No. 3662-03 of 07/05/2003, ruled that this paragraph is not unconstitutional as long as it is interpreted "...in accordance with the substantive law and basically with the constitutional principles of reasonableness, effective judicial protection, best interest of the minor and protection of the family. While it is true that the rule states that the identity card numbers of the parties must be provided, this is obviously in the event that such information exists and is known or can be known. If this is not the case, it is meaningless to demand that such information be provided. It will be up to the plaintiff to specify such circumstance and to the judge to assess it, without disregarding the principle of effective judicial protection and the constitutional right contained in Article 53, according to which, every person has the right to know who his parents are").*

2.- The facts on which it is based, stated one by one, enumerated and well specified. 3.-

The legal texts invoked in its support.

4.-The claim being formulated.

5.- The offer of evidence, with indication, if applicable, of the name and other general information required by law of the witnesses.

6.- The indication of a house or office to receive notifications and the means.

In the same resolution in which the lawsuit is filed, the appointment of the genetic markers will be requested.

b) Defective claim: If the claim does not meet the legal requirements, the jurisdictional instance will order the plaintiff to correct it and, for such purpose, will point out the requirements omitted or not duly filled. The same order will be given in the event that the defendant, within the first five days of the summons, points out any legal defect that its authority deems appropriate. Said resolution, in both

cases, it shall not be subject to appeal. In the resolution the correction will be prevented within five days and, if it is not done, the inadmissibility of the claim will be declared and it will be ordered to be filed.

c) Summons: Once the claim has been filed in legal form or the defects have been corrected, the court will serve the defendant and will grant him a peremptory term of ten days to answer, raise defenses and objections on the merits, provide documentary evidence and offer all other evidence, indicating, if applicable, the names and general information of the witnesses.

d) Incompetence: If the court considers that it does not have jurisdiction, it shall declare this ex officio and order the file to be sent to the court that is to hear the case.

e) Competent court: The court with jurisdiction over family matters of the domicile of the respondent or of the plaintiff shall have jurisdiction, at the option of the latter and without the possibility of extension.

*(The Constitutional Chamber by resolution No. 11098 of July 10, 2009, interpreted that the sentence of the previous paragraph referring to "the possibility of the plaintiff to establish the competence is valid as long as he represents the interests of the minor in accordance with what is set forth in the last recital of the judgment).*

f) Intervention of the Judicial Investigation Organism: In the same resolution in which the lawsuit is filed, the Judicial Investigation Organism of the Supreme Court of Justice, or any of the laboratories duly accredited and recognized by the Ente Nacional de Acreditación de Laboratorios, shall be summoned to perform the scientific test on the paternity or maternity under discussion.

g) Oral Hearing: Once the claim or counterclaim has been answered, a time and date will be set, within the following thirty days, for the single hearing in which, under penalty of nullity, the following will take place:

1.-The definition of the content of the process or the object itself of the specific

hearing. 2.-The conciliation.

3.-Sanitation.

4.-Receipt of evidence.

5.-The resolution of the preliminary objections and objections on

the merits. 6.-The conclusions of the attorneys or the parties.

7.-The dictation of the operative part of the sentence.

h) Incidents: The appointment may not be suspended due to the filing of incidents, appeals or proceedings of a similar nature, which shall be reserved for the beginning of the hearing and resolved at that time.

i) Concentration of evidence: The totality of the confessional and testimonial evidence must be evacuated in a single hearing and, only when it is very abundant, successive hearings may be set.

j) Final discussion: Once the evidence has been received, the judge will give the floor to the parties and their legal representatives to formulate conclusions.

k) Pending evidence: If at the time of concluding the oral hearing there is scientific evidence pending to be evacuated, its result will be awaited and, upon arrival of the result, it will be made known to the parties for a period of three days, so that they may formulate the pertinent observations.

l) Judgment: Once the evidence has been heard and the debate closed, a time will be set that day for the reading of the operative part of the judgment, except in cases of great complexity, in which the court is authorized to issue it on the following day. The notification of the full sentence will be made within a maximum period of five days.

m) Appeals: The sentence will be subject to appeal within the third day and, if applicable, the second instance sentence will admit the cassation appeal foreseen for family matters. The final decision in the proceedings in which filiation is discussed, produces the effects of res judicata.

*(The Constitutional Chamber by resolution No. 11158-2007 of 01/08/2007, interprets this paragraph in the sense that it is not unconstitutional as long as it is interpreted that the judgment rendered in a filiation process with efficacy and authority of res judicata admits the extraordinary appeal for review in the terms indicated in the considerations).*

*(This article was added by Article 4 of the "Responsible Parenthood Law", No. 8101 of April 16, 2001).*

## Article sheet

Article 99.- The action of investigation shall not be admitted when the child has a filiation established by notorious possession of status.

## Article sheet

### CHAPTER VI

#### Filiation by Adoption

##### General Provisions

Article 100.- **Definition.** The adoption is a legal institution of family integration and protection, public order and social interest. It constitutes a legal and psychosocial process, by means of which the adopted person becomes part of the family of the adopters, for all effects and purposes, as a son or daughter.

Their appropriateness and convenience will be determined based on technical and legal criteria, duly regulated in the legislation in force, which will consider the suitability of the adopters and, primarily, the history, requirements and characteristics of the minors in all areas of their development, taking into account their best interests and taking into account their opinion.

*(The preceding paragraph was added by the sole article of Law No. 9827 of March 10, 2020)*

*(As amended by Article 2 of Law No.7538 of August 22, 1995)*

## Article sheet

### **Article 101.- Right to remain with the consanguineous family.**

Every minor has the right to grow up, be educated and cared for under the protection of his or her family under its responsibility; he or she may only be adopted under the circumstances determined in this Code.

*(As amended by Article 2 of Law No.7538 of August 22, 1995)*

## Article sheet

Article 102.- Effects of the adoption. The adoption produces the following effects:

- a) Between adopters and adoptees the same legal ties are established that unite parents with their children by blood. In addition, for all purposes, the adoptees will become part of the adopting consanguineous family.
- b) The adoptee is totally and absolutely disassociated from his blood family and no obligations will be demanded of him by reason of kinship with his ascendants or blood collaterals. Nor shall he have any rights with respect to these same relatives. However, the matrimonial impediments by reason of kinship remain in force with respect to the consanguineous family. Likewise, the legal ties with the paternal or maternal family, as the case may be, subsist when the adoptee is the son or daughter of the spouse of the adopter.
- c) Regarding the term and suspension of parental authority, the provisions of this Code shall apply to adoption.

*(Sinalevi's Note: By means of Article 2 paragraph II) of the law that approves the Family Procedural Code, No. 9747 of October 23, 2019, the previous paragraph will be amended. In accordance with transitory III of the aforementioned law said modification will come into force as of October 1, 2022, so that as of that date the new text will be the following: "c) Regarding the term and suspension of the attributes of parental responsibility, for adoption the provisions of this Code shall apply.").*

*(As amended by Article 2 of Law No. 7538 of August 22, 1995)*

## Article sheet

### **Article 103.- Types of adoption.**

[http://www.pgrweb.go.cr/scij/busqueda/normativa/normas/nrm\\_texto\\_completo.aspx?nValor1=1&nValue2=970](http://www.pgrweb.go.cr/scij/busqueda/normativa/normas/nrm_texto_completo.aspx?nValor1=1&nValue2=970)

Adoption may be joint or individual. If the adopter is the only one, the adoption is individual.

Joint adoption is the one decreed at the request of both spouses and can only be adopted by those who have a stable home. For this purpose, they must live together and proceed together.

If one of the adoptive parents dies before the resolution authorizing the adoption is issued, the Judge may approve the adoption for the surviving spouse, always considering the best interests of the minor.

*(As amended by Article 2 of Law No. 7538 of August 22, 1995)*

*(Interpreted by resolution of the Constitutional Chamber No. 7521-01 of August 1, 2001, in the sense that joint adoption includes "both cohabitants" when the adoption application is filed jointly by the couple accredited as being in a common-law relationship in accordance with article 242 of the Family Code).*

## **Article sheet**

### **Article 104.- Surnames of the adoptee.**

The individual adoptee will repeat the adopter's surnames.

The jointly adopted child shall bear, as first surname, the adopter's first surname and, as second surname, the adopter's first surname.

In the event that a spouse adopts the son or daughter of his or her consort, the adoptee shall use, as first surname, the first surname of the adopter or consanguineous father and, as second surname, the first surname of the consanguineous or adoptive mother.

*(As amended by Article 2 of Law No. 7538 of August 22, 1995)*

## **Article sheet**

### **Article 105.- Change of name of the adoptee.**

In the same resolution that authorizes the adoption, the Court may authorize, at the request of the interested parties, the change of the name of the adoptee.

*(As amended by Article 2 of Law No. 7538 of August 22, 1995)*

[http://www.pgrweb.go.cr/scij/busqueda/normativa/normas/nrm\\_texto\\_completo.aspx?nValor1=1&nValue2=970](http://www.pgrweb.go.cr/scij/busqueda/normativa/normas/nrm_texto_completo.aspx?nValor1=1&nValue2=970)

## Article sheet

Article 106.- General requirements for every adopter. To be an adopter, it is required:

- a) Possess full capacity to exercise their civil rights.
- b) To be older than twenty-five years old, in case of individual adoptions.

In joint adoptions, it is sufficient that one of the adopters has reached this age.

*(See resolution 01-12994 of 19/12/2001, in the sense that the requirement of having a minimum age of twenty-five years to be an adopter, provided for in this article, paragraph b), is not unconstitutional).*

- c) To be at least fifteen years older than the adoptee, when the latter is a minor, and ten years older when the adoptee is of legal age. In the case of joint adoption, these differences shall be established with respect to the adopter of minor age. In the adoption by a single spouse, these differences must also exist with respect to the adopter's spouse.

*(As amended by the sole article of Law No. 9760 of October 29, 2019)*

- d) To be of good conduct and reputation. These qualities will be proven by suitable documentary or testimonial evidence, which will be assessed and evaluated by the judge in the sentence.
- e) Possess family, moral, psychological, social, economic and health conditions that show aptitude and disposition to assume parental responsibility.

*(As amended by Article 2 of Law No. 7538 of August 22, 1995)*

## Article sheet

Article 107.- Impediments to adopt. They may not adopt:

- a) The spouse without the consent of the consort, except in the cases mentioned in the following article.
- b) Those who have exercised the guardianship of the minor or the curatorship of the incapacitated person, as long as the competent judicial authority has not approved the final accounts of the administration.
- c) Persons over sixty years of age, unless the court, in a reasoned decision, considers that, in spite of the age of the adopter, the adoption is convenient for the minor person.
- d) Those who have been deprived or suspended from the exercise of parental authority, without the express consent of the Court.



*(Sinalevi's Note: By means of Article 2 paragraph II) of the law that approves the Family Procedural Code, No. 9747 of October 23, 2019, the previous paragraph will be amended. In accordance with transitory III of the aforementioned law said modification will come into force as of October 1, 2022, so as of that date the new text will be as follows: "(d) Those who have been deprived or suspended from the exercise of the attributes of parental responsibility, without the express assent of the court.").*

*(As amended by Article 2 of Law No. 7538 of August 22, 1995)*

## Article sheet

### **Article 108.- Married individual adopter.**

The individual adopter bound by marriage needs the consent of his spouse to adopt, except when the latter suffers from mental derangement or has been declared in a state of interdiction, absent or presumed dead, or when the spouses have been separated for more than two years, de facto or judicially.

In these cases, if the spouse cannot be found, he/she will be notified of the adoption request by means of an edict in the Judicial Gazette; he/she will be granted in this edict fifteen calendar days to manifest his/her will, on the understanding that his/her silence is equivalent to assent.

*(As amended by Article 2 of Law No. 7538 of August 22, 1995)*

## Article sheet

**Article 109.- Adoptable persons.** The adoption shall proceed in favor of:

a) Minors judicially declared in a state of abandonment, except when one spouse adopts the minor children of the other, as long as the spouse with whom the minors live exercises exclusive parental authority.

*(Sinalevi's Note: By means of Article 2 paragraph II) of the law that approves the Family Procedural Code, No. 9747 of October 23, 2019, the previous paragraph will be amended. Pursuant to transitory III of the aforementioned law said amendment will come into force as of October 1, 2022, therefore, as of that date the new text will be as follows: "(a) The minor persons of whom the termination of the attributes of parental responsibility of their parents has been declared in court, except when one spouse adopts the minor children of the other, provided that the spouse with whom the minors live exercises, exclusively, the attributes of parental responsibility.").*

b) Persons of legal age who have lived with the adoptive parents for a period of not less than six years before reaching the age of majority and have maintained family or emotional ties with the adoptive parents. If the adopters are relatives up to and including the third degree of consanguinity, the required cohabitation will be of three years.

c) Minors whose parents in the exercise of parental authority, registered as such in the Civil Registry, consent before the corresponding judicial authority the will of surrender and detachment and that, in the opinion of said authority, there are justified, sufficient and reasonable causes that lead it to determine this act as the most convenient for the best interest of the minor.

In the national adoptions indicated in paragraph c) of this article, the competent judge shall order protective measures in the best interest of the minor. Likewise, the judge shall order PANI, within a period of two months from the respective judicial notification, to evaluate the reasons and psychosocial conditions of the parents, to verify the existence of free and informed consent and to carry out the necessary actions to exhaust the possibilities of placing the minor with his or her biological extended or affective family.

Once the respective reports have been issued, PANI, through the competent official, will declare or not that the minor or minors are adoptable, by means of a declaration of adoptability, which must be sent to the judicial authority together with the technical reports, within a period of one month.

The competent judge will decide the provisional placement of the minor person, by means of a duly justified resolution and taking into account the will of the parents when consenting to the surrender of the adoptee, as well as the will of the minor person, when he/she can express it. Likewise, it will be able to request, by means of a duly reasoned resolution, any other diligence that it considers pertinent, in case there is reasonable doubt with respect to the filiation of the parents or parents and the minor person.

Once the non-existence of filiation has been established, the judge will reject the request for surrender and will determine the definitive location of the minor, in accordance with the judicial protection process set forth in Law No. 7739, Code of Children and Adolescents, of January 6, 1998.

*(Thus amended by the sole article of law No. 9064 of August 23, 2012) (Thus amended by article 2 of law No. 7538 of August 22, 1995).*

## **Article sheet**

### **Article 109 bis.- International adoptions**

In the case of international adoptions, the competent body of the Patronato Nacional de la Infancia, to issue the administrative act declaring international adoptability, shall be the National Adoption Council.

International adoption shall be subsidiary to national adoption and shall only proceed when the Council has determined that there is no possibility of placing the minor in an adoptive family with habitual residence in Costa Rica.

For all purposes, both the administrative and judicial authorities must apply the procedures and conditions established in the international conventions signed and ratified by Costa Rica, regarding international adoption and protection of the rights of minors.

*(So added by the sole article of Law No. 9064 of August 23, 2012)*

## Article sheet

### **Article 109 ter.- Post-adoptive monitoring**

In order to guarantee the rights of all adopted minors, the National Child Welfare Agency must ensure that a post-adoption follow-up period of up to three years, in the case of international adoption, and up to two years in the case of national adoption, during which the physical, psychosocial, educational, emotional and health conditions for the adequate development of the minor are verified.

If it is verified that the conditions of the minor in the adopting family are no longer in his or her best interests, the procedure shall be carried out in accordance with the provisions of the legal system in force.

In order to ensure such monitoring, the Ministry of Finance and the Budgetary Authority shall provide the National Children's Trust with the required human, professional and financial resources.

The follow-up, in the case of national adoptions, will be done through the local PANI offices, according to their territorial jurisdiction.

In the case of international adoptions, the National Adoption Council shall be the body in charge of ensuring that the international central authorities, or international adoption agencies or collaborating entities, duly accredited in their country of origin and registered before said Council, comply with the international post-adoption follow-up, in accordance with the provisions of the regulations in force for international adoption processes.

*(So added by the sole article of Law No. 9064 of August 23, 2012)*

## Article sheet

### **Article 110.- Impossibility of adoption.**

No one may be adopted by more than one person simultaneously, except in the case of joint adoption. However, a new adoption may take place after the death of one or both adopters.

*(As amended by Article 2 of Law No. 7538 of August 22, 1995)*

*(Interpreted by resolution of the Constitutional Chamber No. 7521-01 of August 1, 2001, in the sense that joint adoption includes "both cohabitants" when the adoption application is filed jointly by the couple accredited as being in a common-law relationship in accordance with article 242 of the Family Code).*

## Article sheet

### **Article 111.- Irrevocability of the adoption.**

The adoption is constituted from the moment that the approval sentence becomes final; it is irrevocable, cannot be terminated by agreement of the parties and cannot be subject to conditions.

*(As amended by Article 2 of Law No. 7538 of August 22, 1995)*

## Article sheet

### **Article 112.- Foreign adopters**

The persons applying for international adoption and whose migratory status does not correspond to habitual residence in Costa Rica, may adopt, jointly or individually, a minor person who has been judicially declared in a state of abandonment and suitable for international adoption by the National Adoption Council, as long as there are no adopters or interested nationals or with habitual residence in our country, according to the registers of eligible families that the National Adoption Council has. For this purpose, apart from the requirements indicated in article 128 of the Family Code, the adopters must provide before the competent judge, as the case may be, the following documents duly authenticated, legalized and officially translated into Spanish:

- a) Suitable certification of birth of the applicants.
- b) Appropriate certification issued by the competent authority of their country of habitual residence, showing that they have been married for at least three years.
- c) Appropriate certification containing the requirements that the minor adoptable person must meet to enter the country of residence of the applicants.
- d) Appropriate certificate from the central administrative authority of their country of habitual residence, declaring them fit to adopt.
- e) Appropriate certification issued by a public or private institution of the receiving State, which must be duly registered with the Patronato Nacional de la Infancia in its capacity as Central Authority for International Adoptions, stating that it is an organization duly accredited for international adoptions according to the Hague Convention, during the established post-adoption follow-up period.

f) Final certified resolution declaring the minor's adoptability, issued by the National Adoption Council.

g) Certified final resolution declaring the suitability of the adoption applicants, issued by the said Board.

In addition to the general requirements established in this Code, they must prove that they meet the personal and family conditions to adopt, required by the law of their domicile, through a psychosocial report duly endorsed by the central administrative authority or the private organization accredited in the receiving country and registered with the National Adoption Council, as indicated in the Hague Convention.

*(As amended by the sole article of Law No. 9064 of August 23, 2012)*

*(Interpreted by resolution of the Constitutional Chamber No. 7521-01 of August 1, 2001, in the sense that joint adoption includes "both cohabitants" when it is made by a couple accredited in de facto union according to article 242 of this Code).*

## Article sheet

### Article 113-Declaration of adoptability

The Patronato Nacional de la Infancia will declare a minor person adoptable, once the corresponding psychosocial studies and the valuations provided for in the law that determine the convenience of the adoption of the minor person have been approved. This declaration does not substitute or correspond to the declaration of adaptability required in the Convention Relative to the Protection of Children and Cooperation in Matters of International Adoption, for the adoptions of children and adolescents requested by persons without habitual residence in Costa Rica.

In the case of national adoptions, after the declaration of adoptability, PANI may request the judge to place the minor in a family resource for adoption purposes, while the procedure for the declaration of abandonment is being resolved, warning that it is a "placement at risk", since there is no definitive judicial declaration. Placement at risk is not allowed in international adoptions.

*(As amended by the sole article of Law No. 9064 of August 23, 2012)*

## Article sheet

### Article 114.- Prior advice to the minor.

The competent administrative authority shall provide the minor and his or her family of origin with advice on the alternatives for adoption and all the necessary information on the consequences of this act. In addition, it shall ensure that the minor is prepared prior to the adoption, in order to facilitate his or her incorporation into the adopting family and the new cultural environment to which he or she will be moved.

*(As amended by Article 2 of Law No. 7538 of August 22, 1995)*

## Article sheet

*(Sinalevi's Note: By means of article 4 paragraph II) of the law that approves the Family Procedural Code, No. 9747 of October 23, 2019, this numeral will be repealed. In accordance with transitory III of the aforementioned law, said modification will enter into force as of October 1, 2022, therefore, as of that date the respective repeal will be made).*

### **Declaration of abandonment of minors Article 115.-**

#### **Jurisdiction.**

The declaration of abandonment of a minor subject to parental authority shall be processed before the Family Judge of the jurisdiction where the minor lives, according to the procedure indicated in the following articles. The rules of the summary proceeding regulated in the Code of Civil Procedure shall be applied in a supplementary manner, insofar as they are pertinent.

*(As amended by Article 2 of Law No. 7538 of August 22, 1995)*

## Article sheet

*(Sinalevi's Note: By means of article 4 paragraph II) of the law that approves the Family Procedural Code, No. 9747 of October 23, 2019, this numeral will be repealed. In accordance with transitory III of the aforementioned law, said modification will enter into force as of October 1, 2022, therefore, as of that date the respective repeal will be made).*

### **Article 116.-Declaration in administrative proceedings.**

Provided that there is no opposition from third parties, in administrative proceedings, PANI may declare the foundling and the orphaned child of father and mother who is not subject to guardianship in a state of abandonment. If there is opposition, the declaration must be processed through the courts. In any case, the final administrative resolution will always be submitted for consultation to the Family Judge, who must decide within a period not exceeding fifteen days, counted from the receipt of the administrative file.

*(As amended by Article 2 of Law No. 7538 of August 22, 1995)*

## **Article sheet**

*(Sinalevi's Note: By means of article 4 paragraph II) of the law that approves the Family Procedural Code, No. 9747 of October 23, 2019, this numeral will be repealed. In accordance with transitory III of the aforementioned law, said modification will enter into force as of October 1, 2022, therefore, as of that date the respective repeal will be made).*

### **Article 117.- Legitimacy to request a declaration of abandonment.**

The Patronato Nacional de la Infancia, or any person interested in the deposit or adoption of a minor, may request the declaration of abandonment of a minor.

*(As amended by Article 2 of Law No. 7538 of August 22, 1995)*

## **Article sheet**

*(Sinalevi's Note: By means of article 4 paragraph II) of the law that approves the Family Procedural Code, No. 9747 of October 23, 2019, this numeral will be repealed. In accordance with transitory III of the aforementioned law, said modification will enter into force as of October 1, 2022, therefore, as of that date the respective repeal will be made).*

### **Article 118.- Application requirements.**

All applications must contain:

- a) Name, age, nationality, marital status, profession or trade, domicile and habitual residence of the adopters, identity card or passport number, in the case of foreigners, both of the adopter and of the spouse when the latter must give his/her consent.
- b) Name, age, nationality, domicile and habitual residence of the adoptee.
- c) Name, marital status, profession or trade and domicile of the father and mother by blood, the legal guardians or the guardians of the adoptee.
- d) Description of the facts that motivate or justify the declaration of abandonment, indicating the relevant evidence and the legal basis.
- e) Place to receive notifications.

*(As amended by Article 2 of Law No.7538 of August 22, 1995)*

## **Article sheet**

*(Sinalevi's Note: By means of article 4 paragraph II) of the law that approves the Family Procedural Code, No. 9747 of October 23, 2019, this numeral will be repealed. In accordance with transitory III of the aforementioned law, said modification will enter into force as of October 1, 2022, therefore, as of that date the respective repeal will be made).*

### **Article 119.- Minors at social risk.**

If the request is based on a situation of social risk that makes it urgent to deposit the minor with a person or in a suitable institution, the applicant may request, together with the request for a declaration of abandonment, the presence of the judge at the place where the minor is located, to verify the facts and authorize the immediate separation of the minor from his or her father, mother or guardians. He must also authorize the provisional deposit.

In this case, the Judge, presented the request before the judicial office, will arrange an appearance in the place indicated by the petitioner within the following twenty-four hours. The applicant, the representative of the Patronato Nacional de la Infancia and a social worker of this Institution will attend. Of the appearance a record will be drawn up and, in it, the Judge will be able to authorize the immediate transfer of the minor person to be deposited temporarily, while the process is resolved.

*(As amended by Article 2 of Law No.7538 of August 22, 1995)*

## **Article sheet**

*(Sinalevi's Note: By means of article 4 paragraph II) of the law that approves the Family Procedural Code, No. 9747 of October 23, 2019, this numeral will be repealed. In accordance with transitory III of the aforementioned law, said modification will enter into force as of October 1, 2022, therefore, as of that date the respective repeal will be made).*

### **Article 120.- Parties to the proceeding.**

Those who exercise parental authority or guardianship over the minor will be considered as parties to the process. If these persons cannot be found or if they are orphaned minors who are not subject to guardianship, the Judge will appoint an ad-hoc guardian to assume the representation of the minor. In any case, they will be notified of the commencement of the proceedings by means of a publication in the Judicial Bulletin.



*(As amended by Article 2 of Law No. 7538 of August 22, 1995)*

## **Article sheet**

*(Sinalevi's Note: By means of article 4 paragraph II) of the law that approves the Family Procedural Code, No. 9747 of October 23, 2019, this numeral will be repealed. In accordance with transitory III of the aforementioned law, said modification will enter into force as of October 1, 2022, therefore, as of that date the respective repeal will be made).*

### **Article 121.- Hearing of the parties.**

Once the request has been filed in due form, the Judge will give a hearing for five days to the interested parties so that they may pronounce themselves on the request and offer evidence in their defense, if applicable.

*(As amended by Article 2 of Law No. 7538 of August 22, 1995)*

## **Article sheet**

*(Sinalevi's Note: By means of article 4 paragraph II) of the law that approves the Family Procedural Code, No. 9747 of October 23, 2019, this numeral will be repealed. In accordance with transitory III of the aforementioned law, said modification will enter into force as of October 1, 2022, therefore, as of that date the respective repeal will be made).*

### **Article 122.- Opposition.**

In the event of opposition, the interested party may, in the same document and within the term of the summons, raise both preliminary and substantive objections, offering the corresponding evidence.

Only the following exceptions are opposable:

- a) Lack of competence.
- b) Lack of standing.
- c) Lack of capacity or defective representation.
- d) Lack of entitlement.

The first three will be processed as preliminary and the Judge will resolve them within three days after the expiration of the term of the summons.

*(As amended by Article 2 of Law No.7538 of August 22, 1995)*

## Article sheet

*(Sinalevi's Note: By means of article 4 paragraph II) of the law that approves the Family Procedural Code, No. 9747 of October 23, 2019, this numeral will be repealed. In accordance with transitory III of the aforementioned law, said modification will enter into force as of October 1, 2022, therefore, as of that date the respective repeal will be made).*

### **Article 123.- Oral and private hearing.**

Once the term of the summons has expired and the previous exceptions have been resolved, the Judge will summon the parties to an oral and private hearing, which will be held within the following eight days. The appearance may be attended by the applicants for the declaration of abandonment, the opponents, the witnesses and the experts that have been offered as evidence of the facts and the representatives of the minor and of PANI. Likewise, the minor person concerned will attend, when the Judge considers that he/she has sufficient discernment to understand the scope of the act. The Judge will listen to the parties, will evacuate the testimonies and the expert's reports and will hear the interested minor, in order to inquire about his situation.

Once all the evidence has been received, the Judge will issue the corresponding sentence and if it is upheld, will order the minor to be handed over to PANI so that it may proceed according to the provisions of article 161 of this Code. In the same resolution, it will be able to authorize the deposit of the minor in an institution or with a suitable person that has been manifested interested in it during the process.

The sentence will be notified in writing, within five days after the appearance.

The appearance shall take place even if there has been no opposition or the defendant has expressed its conformity.

*(As amended by Article 2 of Law No.7538 of August 22, 1995)*

## Article sheet

*(Sinalevi's Note: By means of article 4 paragraph II) of the law that approves the Family Procedural Code, No. 9747 of October 23, 2019, this numeral will be repealed. In accordance with transitory III of the aforementioned law, said modification will enter into force as of October 1, 2022, therefore, as of that date the respective repeal will be made).*

### **Article 124.- Appeals.**

The party who disagrees with the decision may appeal the sentence, before the superior, within three days after its notification in writing.

Once the file has been received, the superior will summon the parties to an appearance within a maximum period of five days, where he will receive the evidence offered by them. The decision shall be issued within five days from the date of the hearing. No appeal shall be allowed against this decision.

*(As amended by Article 2 of Law No.7538 of August 22, 1995)*

### **Article sheet**

*(Sinalevi's Note: By means of article 4 paragraph II) of the law that approves the Family Procedural Code, No. 9747 of October 23, 2019, this numeral will be repealed. In accordance with transitory III of the aforementioned law, said modification will enter into force as of October 1, 2022, therefore, as of that date the respective repeal will be made).*

### **Adoption procedure Article 125.-**

#### **Jurisdiction.**

The Family Judge of the adopter's habitual place of residence will be competent to hear the adoption proceedings. The proceedings will be processed as a non-contentious judicial activity, following the procedure established in this Code.

Adoptions by persons without domicile in the country will be processed by the Family Judge of the adoptee's habitual place of residence. The minor will not be allowed to leave the receiving State before the conclusion of the procedures authorizing the adoption.

*(As amended by Article 2 of Law No.7538 of August 22, 1995)*

### **Article sheet**

*(Sinalevi's Note: By means of article 4 paragraph II) of the law that approves the Family Procedural Code, No. 9747 of October 23, 2019, this numeral will be repealed. In accordance with transitory III of the aforementioned law, said modification will enter into force as of October 1, 2022, therefore, as of that date the respective repeal will be made).*

### **Legitimation for adopters.**

Those who intend to adopt shall jointly formulate the application for adoption, except in the case of an individual adoption; in that case, it shall be requested by the sole interested party. If the adoptee is a person of legal age, he/she must make the application personally, together with the person or persons who intend to adopt him/her.

*(As amended by Article 2 of Law No.7538 of August 22, 1995)*

### **Article sheet**

*(Sinalevi's Note: By means of article 4 paragraph II) of the law that approves the Family Procedural Code, No. 9747 of October 23, 2019, this numeral will be repealed. In accordance with transitory III of the aforementioned law, said modification will enter into force as of October 1, 2022, therefore, as of that date the respective repeal will be made).*

### **Article 127.- Requirements of the adoption application.**

The adoption application must contain:

- a) Name, age, nationality, marital status, profession or trade, identity card number, passport number or residence card number in the case of foreigners, domicile and habitual residence of both the adopter and the spouse who must give his/her consent.
- b) Name, age, nationality, domicile and habitual residence of the adoptee.
- c) Name, marital status, profession or trade and domicile of the father and mother by blood, the legal guardians or the guardians of the adoptee, in the case of minors who are not subject to a judicial declaration of abandonment.
- d) Description of the facts that motivate or justify the adoption, indicating the relevant evidence and legal grounds.
- e) Place to receive notifications.

*(Thus added by article 2 of law No. 7538 of August 22, 1995)*

### **Article sheet**

*(Sinalevi's Note: By means of Article 4 paragraph II) of the law approving the Family Procedural Code, No. 9747 of October 23, 2019, this numeral will be repealed. Pursuant to Transitory III of the aforementioned law said*

[http://www.pgrweb.go.cr/scij/busqueda/normativa/normas/nrm\\_texto\\_completo.aspx?nValor1=1&nValue2=970](http://www.pgrweb.go.cr/scij/busqueda/normativa/normas/nrm_texto_completo.aspx?nValor1=1&nValue2=970)

*The amendment will become effective as of October 1, 2022, and therefore, as of that date, the respective repeal will be made).*

#### **Article 128.- Documents.**

The adoption application must be submitted with the following documentation:

- a) Certification of the final judgment of the judicial declaration of abandonment, when applicable.
- b) Birth certificates of the adopters and the adoptee.
- c) Certification of marriage of the adopters or of the adopter's marital status, if the adoption is individual.

(Interpreted by resolution of the Constitutional Chamber No. 7521-01 of 2:54 p.m. on August 1, 2001, in the sense that in the case of a common-law couple, the acknowledgment issued by the Court for such purpose, as provided in Article 243 of this Code, must be presented).

- d) Recent health certificate of the adopters.
- e) Inventory, if the adoptee has assets or, if not, the respective certification.
- f) Certification of final accounts of administration of the guardian or the judicial depository, approved by the competent Judge, when applicable.
- g) Certification of salary or income of the adopters.
- h) Certification of the Judicial Registry of Offenders, issued in the name of the adopters or of the competent organ in the case of foreigners.
- i) Official translation of the documents that prove the requirements of Article 112 of this Code, in the case of adopters without domicile in the country.

*(Thus added by Article 2 of Law No.7538 of August 22, 1995)*

#### **Article sheet**

*(Sinalevi's Note: By means of article 4 paragraph II) of the law that approves the Family Procedural Code, No. 9747 of October 23, 2019, this numeral will be repealed. In accordance with transitory III of the aforementioned law, said modification will enter into force as of October 1, 2022, therefore, as of that date the respective repeal will be made).*

#### **Article 129.- Omission of documents.**

The court may prevent the adopters from presenting any document mentioned in the previous article that has been omitted or may request other diligences that it considers convenient, for a better appreciation and valuation of the best interest of the minor person.

*(Thus added by article 2 of law No. 7538 of August 22, 1995)*

## Article sheet

*(Sinalevi's Note: By means of article 4 paragraph II) of the law that approves the Family Procedural Code, No. 9747 of October 23, 2019, this numeral will be repealed. In accordance with transitory III of the aforementioned law, said modification will enter into force as of October 1, 2022, therefore, as of that date the respective repeal will be made).*

### **Appointment of experts.**

Once the request has been received, the Judge will appoint experts to carry out a psychological and social study of the minor and of the adoptive parents, in order to verify the necessity and the convenience of the adoption and the aptitude to adopt and to be adopted. The studies will be carried out within fifteen days after the experts accept the position.

This procedure will be omitted when, in the Judge's opinion, the competent administrative authority has carried out such studies.

The social and psychological studies carried out in the place of habitual residence of the adoptive parents without domicile in the country, will only be valid if they were carried out by specialists of a public or state institution of that place, dedicated to watch over the protection of children or the family, or professionals whose opinions are supported by an entity of such nature.

*(Thus added by article 2 of law No. 7538 of August 22, 1995)*

## Article sheet

*(Sinalevi's Note: By means of article 4 paragraph II) of the law that approves the Family Procedural Code, No. 9747 of October 23, 2019, this numeral will be repealed. In accordance with transitory III of the aforementioned law, said modification will enter into force as of October 1, 2022, therefore, as of that date the respective repeal will be made).*

### **Article 131.- Hearings and opposition.**

A notice of application for adoption shall be published in the Judicial Gazette; five days shall be granted therein to formulate oppositions. Any person with a direct interest may present them in writing, stating the reasons for his or her disagreement and indicating the evidence on which his or her opposition is based. In addition, the PANI will be involved.

Within a period of five days, the judge will decide on the oppositions and, in any case, will attest the fulfillment of the legal requirements in the resolution that orders the adoption. If any opposition is accepted, the proceedings will be terminated and the parties will be referred to the summary proceedings.

*(Thus added by Article 2 of Law No.7538 of August 22, 1995)*

## **Article sheet**

*(Sinalevi's Note: By means of article 4 paragraph II) of the law that approves the Family Procedural Code, No. 9747 of October 23, 2019, this numeral will be repealed. In accordance with transitory III of the aforementioned law, said modification will enter into force as of October 1, 2022, therefore, as of that date the respective repeal will be made).*

### **Article 132.- Oral appearance.**

Once the expert reports mentioned in article 130 of this Code have been rendered, within a term not exceeding five days, the minor and the adoptive parents shall appear personally before the Judge, in a single hearing. The representatives of PANI shall also appear. In this hearing, the Judge must explain to the adopters the obligations they assume. Likewise, in this act, the adopters will expressly state their acceptance of the rights and obligations. A record will be drawn up of all the proceedings and signed by the participants.

*(Thus added by article 2 of law No. 7538 of August 22, 1995)*

## **Article sheet**

*(Sinalevi's Note: By means of article 4 paragraph II) of the law that approves the Family Procedural Code, No. 9747 of October 23, 2019, this numeral will be repealed. In accordance with transitory III of the aforementioned law, said modification will enter into force as of October 1, 2022, therefore, as of that date the respective repeal will be made).*

### **Article 133.- Criteria of the adoptee.**

The adoptee will express his criteria whenever, in the judgment of the Judge, he possesses sufficient discernment to refer to the adoption of which he is the object. The minor will be heard personally by the judge, ex officio.

or at the request of a party, and the experts who carried out the psychosocial studies mentioned in Article 130 of this Code must be present. The judge shall explain to the minor the scope of the act, with or without the assistance of the adopters or without them.

*(Thus added by article 2 of law No. 7538 of August 22, 1995)*

## **Article sheet**

*(Sinalevi's Note: By means of article 4 paragraph II) of the law that approves the Family Procedural Code, No. 9747 of October 23, 2019, this numeral will be repealed. In accordance with transitory III of the aforementioned law, said modification will enter into force as of October 1, 2022, therefore, as of that date the respective repeal will be made).*

### **Article 134.- Previous cohabitation of the minor.**

If the Judge deems it convenient, ex officio or at the request of PANI, he/she may order a period of previous cohabitation with the adoptive parents, under the technical supervision of PANI. The judge, by resolution, and taking into account the best interests of the minor, will indicate the term, the evaluation and other conditions.

*(Thus added by article 2 of law No. 7538 of August 22, 1995)*

## **Article sheet**

*(Sinalevi's Note: By means of article 4 paragraph II) of the law that approves the Family Procedural Code, No. 9747 of October 23, 2019, this numeral will be repealed. In accordance with transitory III of the aforementioned law, said modification will enter into force as of October 1, 2022, therefore, as of that date the respective repeal will be made).*

### **Article 135.- Final resolution.**

Once the appearance mentioned in article 132 of this Code has been concluded and the term of cohabitation stipulated in the previous article has elapsed, when it has been arranged, the Judge, by means of a definitive resolution, duly motivated, will authorize the adoption or will declare it without place. This resolution will be notified in writing to the parties, within five days after the appearance.

*(Thus added by article 2 of law No. 7538 of August 22, 1995)*



## Article sheet

*(Sinalevi's Note: By means of article 4 paragraph II) of the law that approves the Family Procedural Code, No. 9747 of October 23, 2019, this numeral will be repealed. In accordance with transitory III of the aforementioned law, said modification will enter into force as of October 1, 2022, therefore, as of that date the respective repeal will be made).*

### **Article 136.- Appeals.**

The party who disagrees with the decision may appeal the sentence before the superior, within three days after the written notification.

Once the file has been received, within a maximum period of five days, the superior shall summon the parties to an oral hearing, where he shall receive the evidence offered by them. The decision shall be issued within five days from the date of the hearing. No appeal shall lie against this decision.

*(Thus added by article 2 of law No. 7538 of August 22, 1995)*

## Article sheet

*(Sinalevi's Note: By means of article 4 paragraph II) of the law that approves the Family Procedural Code, No. 9747 of October 23, 2019, this numeral will be repealed. In accordance with transitory III of the aforementioned law, said modification will enter into force as of October 1, 2022, therefore, as of that date the respective repeal will be made).*

### **Article 137.- Best interests of the minor.**

Both the resolutions and the measures dictated by the Courts in relation to the adopted minors shall be dictated taking into account the best interests of the minor.

*(Thus added by Article 2 of Law No. 7538 of August 22, 1995)*

## Article sheet

*(Sinalevi's Note: By means of Article 4 paragraph II) of the law approving the Family Procedural Code, No. 9747 of October 23, 2019, this numeral will be repealed. Pursuant to Transitory III of the aforementioned law said*

*The amendment will become effective as of October 1, 2022, and therefore, as of that date, the respective repeal will be made).*

#### **Article 138.- Registration of the adoption.**

The execution of the resolution, or the certified photocopy, authorizing the adoption will be registered in the Civil Registry within eight working days of the presentation and will be noted in the margin of the birth entry of the adoptee, in the register of births. The names and surnames of the parents by blood shall be substituted by those of the adopting parents.

In order to relate the new registration of the adoptee with the previous one, the respective annotations must be written in the margin of both, and the original must be cancelled. Once registered, the adoption becomes legally effective as of the resolution that authorizes it.

*(Thus added by Article 2 of Law No.7538 of August 22, 1995)*

#### **Article sheet**

*(Sinalevi's Note: By means of article 4 paragraph II) of the law that approves the Family Procedural Code, No. 9747 of October 23, 2019, this numeral will be repealed. In accordance with transitory III of the aforementioned law, said modification will enter into force as of October 1, 2022, therefore, as of that date the respective repeal will be made).*

#### **Article 139.- Disclosure of entries.**

In the case of minors, the Civil Registry may only disclose or certify the relationship between the two entries by court order or at the express request of the Executive Directorate of PANI. Notaries may not issue certifications or other documents related to these entries. Failure to comply with the above will cause the responsible party to incur the provisions of Article 329 of the Penal Code.

**Transitory:** The files, of full or simple adoption, pending resolution before the Courts of Justice at the time this law comes into force, will continue to be processed according to the previous legislation, unless the applicants wish to process it according to the present law, only in the case of full adoption.

*(Thus added by article 2 of law No. 7538 of August 22, 1995)*

#### **Article sheet**

### **TITLE III**

#### **Parental Authority or Parental Power**

## CHAPTER I

### General Provisions

Article 140.- It is incumbent upon the parents to govern the children, to protect them, to administer their property and to represent them legally. In case there is an opposing interest between them, the children shall be represented by a special guardian.

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from former Article 127 to Article 140).*

*(Sinalevi's Note: By means of Article 2 paragraph II) of the law that approves the Family Procedural Code, No. 9747 of October 23, 2019, this numeral will be amended. In accordance with transitory III of the aforementioned law, said modification will come into effect as of October 1, 2022, so that as of that date the new text will be as follows: "Article 140- Attributes of parental responsibility. It is incumbent upon the parents to govern their children, protect them, administer their property and legally represent them. In case of opposing interests, the children shall be represented by a special guardian").*

#### Article sheet

Article 141- The rights and obligations inherent to parental responsibility cannot be waived. Neither can they be modified by agreement of the parties, except as provided for separation and divorce by mutual consent, insofar as it refers to the guardianship, upbringing and education of the sons and daughters.

Likewise, when the recognition of minor children born out of wedlock is made, the father and the mother must agree on the attributes of parental responsibility, guardianship, upbringing, education and regime of family interrelation of the former. Such agreement shall be made according to the provisions of Article 152 of this Code, either in court or before the Civil Registry, the National Child Welfare Agency (PANI) or notary public; in the absence of agreement or when the best interest of the minor so justifies, the Court shall provide and modify in a substantiated resolution all the corresponding matters.

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from former Article 128 to 141).*

*(Thus amended by Article 1 of Law No. 9781 of November 12, 2019, "Family Interrelationship Regime").*

*(Sinalevi's Note: By means of Article 2 paragraph II) of the law that approves the Family Procedural Code, No. 9747 of October 23, 2019, this numeral will be amended. Pursuant to transitory III of the aforementioned law said modification will come into effect as of October 1, 2022, so as of that date the new text will be as follows: "Article 141- Attributes of parental responsibility. Rights and obligations.*

#### *Irrenunciability*

*The rights and obligations inherent in the attributes of parental responsibility cannot be waived. Neither can they be modified by agreement of the parties, except in relation to the personal custody of minors.").*

#### Article sheet

Article 142.- Parents and children owe each other mutual respect and consideration. Minor children owe obedience to their parents.

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from former Article 129 to Article 142).*

## Article sheet

Parental authority and representation. Rights and duties. Parental authority confers the rights and imposes the duties of guiding, educating, caring for, supervising and disciplining the sons and daughters; this does not authorize, in any case, the use of corporal punishment or any other form of humiliating treatment against minors.

It also empowers to request the court to authorize the adoption of measures necessary to assist in the orientation of the minor, which may include his or her internment in a suitable establishment for a prudent period of time. The same provision shall apply to minors in a state of abandonment or social risk, or to those who are not subject to parental authority; in the latter case, the request may be made by the Patronato Nacional de la Infancia. The internment will be prolonged until the court decides otherwise, after the realization of the expert studies that are required for such effects; these studies must be rendered within a term counted from the internment.

*(Thus amended by Article 2 of the Law "Rights of children and adolescents to discipline without physical punishment or humiliating treatment", No. 8654 of August 1, 2008).*

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from former Article 130 to Article 143).*

*(Sinalevi's Note: By means of Article 2 paragraph II) of the law that approves the Family Procedural Code, No. 9747 of October 23, 2019, this numeral will be amended. Pursuant to transitory III of the aforementioned law said amendment will come into force as of October 1, 2022, so as of that date the new text will be as follows: "Article 143- Attributes of parental responsibility and representation. Duties and rights*

*The attributes of parental responsibility confer the rights and impose the duties of guiding, educating, caring for, supervising and disciplining children; this does not authorize, in any case, the use of corporal punishment or any other form of humiliating treatment against minors.*

*It also empowers to request the court to authorize the adoption of measures necessary to assist in the orientation of the minor, which may include their internment in an appropriate establishment, for a reasonable period of time. The same provision shall apply to minors with termination or who are not subject to any person of the attributes of parental responsibility, in which case the request may be made by the National Child Welfare Agency (PANI). The internment shall be prolonged until the court decides otherwise, after the completion of the expert studies required for such purposes; these studies shall be rendered within a term counted as of the internment.").*

## Article sheet

Authorization for medical intervention of minors.

[http://www.pgrweb.go.cr/scij/busqueda/normativa/normas/nrm\\_texto\\_completo.aspx?nValor1=1&nValue2=970](http://www.pgrweb.go.cr/scij/busqueda/normativa/normas/nrm_texto_completo.aspx?nValor1=1&nValue2=970)

When hospitalization, treatment or surgery is necessary, decisive and indispensable to safeguard the health or life of the minor, the relevant optional decision is authorized, even against the parents' opinion. In the case of minors represented by the Patronato Nacional de la Infancia, the same provision shall apply in the event of a discrepancy.

*(Thus amended by the sole article of Law No. 8409 of April 26, 2004).*

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from former Article 131 to 144).*

## Article sheet

Article 145.-Patria potestas includes the right and the obligation to administer the property of the minor child. The minor child shall administer and dispose as if he/she were of legal age of the assets acquired with his/her work.

Excepted from parental administration are assets inherited, bequeathed or donated to the child, if so provided by the testator or donor, expressly or implicitly. In such a case an administrator shall be appointed.

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from former Article 132 to 145).*

*(Sinalevi's Note: By means of Article 2 paragraph II) of the law that approves the Family Procedural Code, No. 9747 of October 23, 2019, this numeral will be amended. Pursuant to transitory III of the aforementioned law said amendment will come into effect as of October 1, 2022, so as of that date the new text will be as follows: "Article 145-Attributes of parental responsibility. Administration of assets of minor children The attributes of parental responsibility include the right and obligation to administer the assets of the minor child.*

*The minor child shall administer and dispose, as if he/she were of legal age, of the assets acquired through his/her work.*

*Excepted from parental administration are assets inherited, bequeathed or donated to the child, if so provided by the testator or donor, expressly or implicitly. In such a case, an administrator shall be appointed.").*

## Article sheet

Article 146.- The exercise of parental authority, with respect to the property of the minor, is not subject to any preventive caution, except as provided in Article 136 (\*).

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from former Article 133 to 146).*

*(\*) (Currently article 149)*

*(Sinalevi's Note: By means of Article 2 paragraph II) of the law that approves the Family Procedural Code, No. 9747 of October 23, 2019, this numeral will be reformed. Pursuant to Transitory III of the aforementioned law, the aforementioned*

*The amendment will be effective as of October 1, 2022, so that as of that date the new text will be as follows: "Article 146- Attributes of parental responsibility. Assets of minor children. Exempt from preventive caution. The exercise of the attributes of parental responsibility, as to the assets of the minor, is not subject to any preventive caution, except as provided in article 149.").*

## Article sheet

Article 147.- The parental authority does not give the right to alienate or encumber the assets of the child, except in case of necessity or evident benefit for the minor. For this, judicial authorization shall be necessary if it is a question of real estate or furniture with a value of more than ten thousand colones.

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from former Article 134 to 147).*

*(Sinalevi's Note: By means of Article 2 paragraph II) of the law that approves the Family Procedural Code, No. 9747 of October 23, 2019, this numeral will be amended. Pursuant to transitory III of the aforementioned law said amendment will come into effect as of October 1, 2022, so as of that date the new text will be as follows: "Article 147- Attributes of parental responsibility. Alienation and encumbrance of assets of the child. The attributes of parental responsibility do not give the right to alienate or encumber the assets of the child, except in case of necessity or evident benefit for the minor. For this purpose, judicial authorization shall be necessary in the case of real estate or furniture with a value of more than ten thousand colones (¢10,000).").*

## Article sheet

Article 148: Whoever exercises parental authority shall deliver to his eldest child or to the person who replaces him in the administration, when the latter terminates for another cause, all the property and fruits belonging to the child, and shall render a general account of such administration.

*(Thus amended the previous paragraph by Article 2° of Law No. 9406 of November 30, 2016, "Strengthening the legal protection of girls and female adolescents in situations of gender-based violence associated with abusive relationships").*

When the appointment of an asset manager is appropriate, the Court, having regard to the circumstances, shall determine the fee to be charged by the asset manager.

In the event that the administration of the minor's assets is in charge of persons other than the one who has the custody, upbringing and education of the minor, the Court shall authorize the periodic sum to be delivered for his or her food.

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from the former Article 135 to Article 148)*

*(Sinalevi's Note: By means of Article 2 paragraph II) of the law that approves the Family Procedural Code, No. 9747 of October 23, 2019, this numeral will be amended. Pursuant to transitory III of the aforementioned law said modification will come into effect as of October 1, 2022, so as of that date the new text will be as follows: "Article 148- Attributes of parental responsibility. Replacement. Whoever exercises the attributes of parental responsibility shall deliver to his or her adult or emancipated child or to the person who replaces him or her in the administration*

*when it is terminated for any other reason, all assets and fruits belonging to the child and shall render a general account of such administration.*

*When the appointment of a property administrator is appropriate, the court, having regard to the circumstances, shall determine the fee to be charged by the administrator.*

*In the event that the administration of the minor's assets is in charge of persons other than the one who has the custody, upbringing and education of the minor, the court shall authorize the periodic sum to be delivered for his food.").*

#### Article sheet

Article 149.- The bankrupt parents or those to whom the Court orders it must guarantee their administration in accordance with the provisions established for the guardianship.

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from former Article 136 to 149).*

#### Article sheet

Article 150.- As long as the administration is not guaranteed, the Court shall appoint a special administrator.

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from former Article 137 to 150).*

#### Article sheet

## CHAPTER II

### PARENTAL RESPONSIBILITY FOR CHILDREN BORN OUT OF WEDLOCK

#### AND COMMON-LAW UNIONS

*(Thus amended the heading of the previous chapter by Article 1° of Law No. 9781 on November 12, 2019, "Family Interrelationship Regime").*

Article 151- Joint exercise, cases of conflict, administration of property of sons and daughters.

The father and mother shall exercise, with equal rights and duties, parental responsibility over their children born in marriage and common-law unions. In case of conflict, at the request of either of them, and by means of the family resolution procedure established in the Family Procedural Code, the Court shall decide,



strictly adhering to the terms established in said Code, on the exercise of parental responsibility and its attributes, including all matters concerning the establishment or modification of the regime of family interrelationship. In any case, the best interests of the minor must be taken into account.

The administration of the assets of the son or daughter corresponds to the one designated by mutual agreement or by order of the Court.

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from former Article 138 to 151).*

*(Thus amended by Article 1 of Law No. 9781 of November 12, 2019, "Family Interrelationship Regime").*

*(Sinalevi's Note: By means of Article 2 paragraph II) of the law that approves the Family Procedural Code, No. 9747 of October 23, 2019, this numeral will be amended. Pursuant to transitory III of the aforementioned law said modification will come into effect as of October 1, 2022, so that as of that date the new text will be as follows: "Article 151- Joint exercise, cases of conflict, administration of child's property. The father and the mother exercise, with equal rights and duties, the attributes of parental responsibility over the children born in the marriage. In case of conflict, at the request of either of them and through the family resolution procedure established in the Family Procedural Code, the judge will decide in a timely manner. The best interests of the minor shall be taken into account.*

*The administration of the child's assets corresponds to the person designated by mutual agreement or by court order").*

## Article sheet

Article 152- Minor children. Attributes of parental authority, guardianship, upbringing, education and family interrelationship regime.

In case of divorce, annulment of marriage or judicial separation or by mutual consent, the spouses with minor children shall agree or, failing agreement, the Court shall provide in a well-founded resolution all the corresponding provisions on the following points:

- a) Custody of minor children and the exercise of parental responsibility. It will be a priority to choose shared custody and the exercise of parental responsibility for both parents; for this purpose, the best interests of the minor will be taken into account. Likewise, the right to housing for the minor children shall be ensured.
- b) That which corresponds to the feeding, care, upbringing, education of the minor children and the administration of their assets, in proportion to the capabilities and economic income of the father and mother.
- c) The regime of family interrelation, including the right of minors to maintain contact, visits and communication with their fathers or mothers who do not cohabit with them, and other relatives up to the fourth degree of consanguinity and second degree of affinity, as well as third non-relatives who are part of said extended and affective family circle, when the best interest of the minor so justifies and as stipulated in Article 35 of Law No. 7739, Childhood and Adolescence Code, of January 6, 1998.

These same provisions shall be applicable to the termination of de facto unions for any reason and their subsequent recognition in a court of law.



In case of divorce and separation by mutual consent, the agreement will not be valid until the Court does not pronounce on the approval of the separation in a resolution based on a period of fifteen working days. The judicial authority may request that the agreement presented be completed or clarified, if it is omitted or confusing in the points indicated in this article prior to its approval; in these cases it must reject or modify the agreement for the benefit of the sons and daughters, and will intervene, if there is no agreement between the parties.

The decision made in accordance with the above provisions regarding minor children does not constitute res judicata and the Court may modify it by way of incidental proceedings, at the request of a party or of the National Child Welfare Agency (PANI), according to the convenience of the minor children or due to a change of circumstances.

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from former Article 139 to 152).*

*(Thus amended by Article 1 of Law No. 9781 of November 12, 2019, "Family Interrelationship Regime").*

*(Sinalevi's Note: By means of Article 2 paragraph II) of the law that approves the Family Procedural Code, No. 9747 of October 23, 2019, this numeral will be amended. Pursuant to transitory III of the aforementioned law said amendment will come into force as of October 1, 2022, so that as of that date the new text will be as follows: "Article 152- Minor children. Attributes of parental responsibility. In case of divorce, nullity of marriage or judicial separation, the judicial authority that processes it, taking into account primarily the interest of the minor children, shall provide everything related to the attributes of parental responsibility referred to the personal rights, among them, the personal custody of them and shall adopt the necessary measures concerning the personal relations between parents and children and the grandparents of the latter.*

*The decisions made in accordance with the above provisions may be modified at the request of the interested party or of the National Child Welfare Agency (PANI), all in accordance with the convenience of the children or due to a change in circumstances."*

## **Article sheet**

*(Sinalevi's Note: By means of article 4 paragraph II) of the law that approves the Family Procedural Code, No. 9747 of October 23, 2019, this numeral will be repealed. In accordance with transitory III of the aforementioned law, said modification will enter into force as of October 1, 2022, so as of that date the respective repeal will be made).*

In the event that the spouses reconcile, or that the parents whose marriage has been dissolved contract new marriages between them, the spouse who has lost parental authority shall recover it, except in the case of divorce on the grounds provided for in subsection (3) of Article 48 with respect to the children.

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from former Article 140 to 153).*

## **Article sheet**

*(Sinalevi's Note: By means of article 4 paragraph II) of the law that approves the Family Procedural Code, No. 9747 of October 23, 2019, this numeral will be repealed. In accordance with transitory III of the aforementioned law, said modification will enter into force as of October 1, 2022, so as of that date the respective repeal will be made).*

Article 154.- The administration of the property of the minor children shall be suspended by operation of law when the parents remarry a person other than the other parent, even though they retain the other rights and obligations inherent to parental authority.

They may be authorized to exercise such administration again by the Court. The Court may order, if it deems necessary, a satisfactory surety to cover the damages that may be caused to the minors, and in this case, if such surety is not given, an administrator of said assets will be appointed, with the participation of the Patronato Nacional de la Infancia (National Children's Trust).

For the guarantee, administration and accounts, the provisions established for the guardianship shall be observed.

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from former Article 141 to 154).*

## Article sheet

### CHAPTER III

#### Parental Rights over Children Born Out of Wedlock

The mother, even when she is a minor, shall exercise parental authority over the children born out of wedlock and shall have full legal capacity for such purposes.

The Court may, in special cases, at its discretion, at the request of a party or of the National Child Welfare Agency and exclusively in the interest of the minors, grant parental authority to the father jointly with the mother.

*(Thus amended by Article 1 of Law No. 5895 of March 23, 1976)*

*(Interpreted by resolution of the Constitutional Chamber No. 1975-94 of 3:39 p.m. on 04/26/1994, which was added by resolution of the same Chamber No. 3277-00 of 5:18 p.m. on April 15, 2000. The interpretation was made in the following sense: "The action is declared admissible and consequently the second paragraph of article 142 of the family code is annulled, except in the cases in which the recognition of the extramarital child has not been by mutual agreement or with the acceptance of the mother. Likewise, it is declared that the first paragraph of said article is constitutional as long as it is interpreted in harmony with what is herein resolved for the second paragraph").*

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from the former Article 142 to Article 155)*

*(Sinalevi's Note: By means of Article 2 paragraph II) of the law that approves the Family Procedural Code, No. 9747 of October 23, 2019, this numeral will be reformed. Pursuant to Transitory III of the aforementioned law said*

*The amendment will be effective as of October 1, 2022, so that as of that date the new text will be as follows: "Article 155- Attributes of parental responsibility. Children born out of wedlock. The mother and the father, even if they are minors, shall exercise the attributes of parental responsibility over the children born out of wedlock and shall have full legal personality for such purposes.").*

#### Article sheet

*(Annulled by resolution of the Constitutional Chamber No. 12019-06 of August 16, 2006).*

#### Article sheet

*(Sinalevi's Note: By means of article 4 paragraph II) of the law that approves the Family Procedural Code, No. 9747 of October 23, 2019, this numeral will be repealed. In accordance with transitory III of the aforementioned law, said modification will enter into force as of October 1, 2022, therefore, as of that date the respective repeal will be made).*

The provisions of Article 138 (\*) shall apply when the mother of a child born out of wedlock exercises paternal authority jointly with the father; and the provisions of Article 141 (\*) shall apply to the mother of a child born out of wedlock, when she marries.

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from former Article 144 to 157).*

*(\*) (Currently Articles 151 and 154, respectively)*

#### Article sheet

### CHAPTER IV

#### Term and Suspension of Parental Power Article

158- Suspension of Parental Power. The parental authority terminates:

- a) For the majority acquired.
- b) For the death of those who exercise it
- c) By the judicial declaration of abandonment, which occurs because the minor is at social risk, in accordance with article 175 of this Code and there is no opposition from the parents or when, having suspended the right, they do not demonstrate that they have modified the situation of risk for the minor, within the period of time granted by the judge.

d) When the minor has been subjected to rape, sexual abuse, corruption or serious or very serious injury by those who exercise it.

e) By means of a final judicial decision that determines that the person exercising it has given death or has attempted to give death to a relative up to the third degree of affinity or consanguinity of the minor.

*(As amended by Article 13 of the Law on Comprehensive Reparation for Survivors of Femicide, No. 10263 of May 6, 2022).*

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from the former Article 145 to Article 158)*

*(Sinalevi's Note: By means of Article 2 paragraph II) of the law that approves the Family Procedural Code, No. 9747 of October 23, 2019, this numeral will be amended. Pursuant to transitory III of the aforementioned law said amendment will come into effect as of October 1, 2022, so that as of that date the new text will be as follows: "Article 158- Extinction of the attributes of parental responsibility. The attributes of parental responsibility are extinguished by the death of those who exercise it or of the minor.").*

*(Sinalevi's Note: By means of Article 3 paragraph I) of the law approving the Family Procedural Code, No. 9747 of October 23, 2019, Article 158 bis will be added. Pursuant to transitory III of the aforementioned law said amendment will come into force as of October 1, 2022, so that as of that date the new text will be as follows: "Article 158 bis- Loss of the attributes of parental responsibility. The following are causes for the loss of the attributes of parental responsibility:*

*a) The state of abandonment in which the minor is found.*

*b) When these attributes have been suspended and it is not demonstrated that the situation of vulnerability has not been modified within the term granted in the suspension sentence.*

*c) When the minor has been the object, on the part of the parent, of any of the crimes against physical and sexual integrity of Law No. 4573, Penal Code, of May 4, 1970, or other laws.*

*d) Habitual drunkenness, abuse of drugs or other narcotic substances, gambling habit in a manner detrimental to the family's assets, depraved habits and proven vagrancy of the parents, without possibility of rehabilitation or when such conduct caused serious harm to the minor.*

*e) Excessive harshness in treatment or orders, advice, insinuations or corrupting examples given by parents to their children.*

*f) The refusal of parents to provide food for their children, to dedicate them to begging and allow them to roam the streets.*

*g) Irreversible incapacity or judicially declared absence.").*

## Article sheet

Article 159- Suspension of the attributes of parental responsibility. The following are causes of suspension of the attributes of parental responsibility:

- a) When the improper and habitual use of drugs or other narcotic substances makes coexistence and the healthy exercise of the duties and rights of the minor impossible.
- b) For any other form of notorious parental misconduct, abuse of parental power and breach of family duties.
- c) For domestic or intra-family violence against the minor or any of his or her relatives up to the third degree of consanguinity or affinity.

*(As amended by Article 13 of the Law on Comprehensive Reparation for Survivors of Femicide, No. 10263 of May 6, 2022).*

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from the former Article 146 to Article 159)*

*(Sinalevi's Note: By means of Article 2 paragraph II) of the law that approves the Family Procedural Code, No. 9747 of October 23, 2019, this numeral will be amended. Pursuant to transitory III of the aforementioned law said amendment will come into effect as of October 1, 2022, so that as of that date the new text will be as follows: "Article 159- Suspension of the attributes of parental responsibility. The following are causes for suspension of the attributes of parental responsibility:*

- a) When the improper and habitual use of drugs or other narcotic substances makes living together and the healthy exercise of duties and rights towards the children impossible.*
- b) For any other form of notorious parental misconduct, abuse of parental power and breach of family duties. ")*

## **Article sheet**

### **Article 160.- State of abandonment.**

It shall be understood that the minor is in a state of abandonment when:

- a) Lack a known father and mother.
- b) Is an orphan of both parents and is not under guardianship.
- c) Is at social risk due to the unsatisfaction of his or her basic material, moral, legal and psycho-affective needs, due to unjustified neglect by those who legally exercise the rights and duties inherent to parental authority.

The poverty of the family does not in itself constitute grounds for declaring a state of abandonment.

*(Thus amended by Article 3 of Law No. 7538 of August 22, 1995)*

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from the former Article 147 to Article 160).*

## **Article sheet**

*(Sinalevi's Note: By means of article 4 paragraph II) of the law that approves the Family Procedural Code, No. 9747 of October 23, 2019, this numeral will be repealed. In accordance with transitory III of the aforementioned law, said modification will enter into force as of October 1, 2022, therefore, as of that date the respective repeal will be made).*

Article 160 bis.- The food allowance shall also include the education, instruction or training for work of the minor, incapable or in the situation provided for in subsection 6) of the preceding article. Likewise, it shall include the care of the needs for the normal physical and psychological development of the beneficiary.

The provider of children under twelve years of age may request every six months before the respective judge, a medical examination that certifies the physical and nutritional state of health of the food. This examination will have to be practiced by a specialist of the Costa Rican Social Security Fund.

*(Thus added by Article 66 of Law No. 7654 of December 19, 1996, "Law on Alimony").*

## **Article sheet**

### **Article 161.- Deposit of minors in a state of abandonment.**

Minors judicially declared in a state of abandonment shall be placed under the custody of PANI, which shall have their legal representation. PANI will deposit, in a suitable institution or with a suitable person or family, the minors whose father and mother have only been suspended in the exercise of parental authority. The deposit may be managed in the same file where the declaration of abandonment is being processed. In other cases, it will manage the adoption or promote the guardianship of the minor.

When a person interested in the adoption has managed the declaration of abandonment and the consequent loss of parental authority, he/she may manage, in the same file, the deposit of the minor, while the adoption proceedings are being concluded.

*(Thus amended by Article 3 of Law No. 7538 of August 22, 1995)*

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from former Article 148 to Article 161).*

## Article sheet

Article 162.- When the person who has parental authority over the minor is incapacitated for certain business of the minor, a legal representative shall be appointed to the minor for that business.

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from former Article 149 to Article 162).*

*(Sinalevi's Note: By means of Article 2 paragraph II) of the law that approves the Family Procedural Code, No. 9747 of October 23, 2019, this numeral will be amended. Pursuant to transitory III of the aforementioned law said amendment will come into effect as of October 1, 2022, so as of that date the new text will be as follows: "Article 162- Attributes of parental responsibility. Business of the minor. Appointment of legal representative When whoever has the parental responsibility of the minor is incapacitated for certain business of the minor, a legal representative shall be appointed to the minor for that business.").*

## Article sheet

### **Article 163.- Recovery of parental authority.**

When the reason for the suspension or incapacity has ceased, the suspended or incapacitated person shall recover the rights of parental authority, by express declaration of the Court that rehabilitates him/her, provided that the minor has not been judicially declared in a state of abandonment for the purpose of adoption.

*(Thus amended by Article 3 of Law No. 7538 of August 22, 1995)*

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from the former Article 150 to Article 163).*

*(Sinalevi's Note: By means of Article 2 paragraph II) of the law that approves the Family Procedural Code, No. 9747 of October 23, 2019, this numeral will be amended. Pursuant to transitory III of the aforementioned law said amendment will come into force as of October 1, 2022, so that as of that date the new text will be as follows: "Article 163- Recovery of the attributes of parental responsibility. When the reason for the suspension of the attributes of parental responsibility has ceased, the suspended person shall recover the rights by express declaration of the judicial authority.").*

## Article sheet

[http://www.pgrweb.go.cr/scij/busqueda/normativa/normas/nrm\\_texto\\_completo.aspx?nValor1=1&nValue2=970](http://www.pgrweb.go.cr/scij/busqueda/normativa/normas/nrm_texto_completo.aspx?nValor1=1&nValue2=970)



## TITLE IV SINGLE

### CHAPTER

#### Food

Article 164.- Food shall be understood as that which provides sustenance, room, clothing, medical assistance, education, entertainment, transportation and others, in accordance with the economic possibilities and the capital owned or possessed by the person who is to provide it. The needs and the standard of living accustomed by the beneficiary, for his normal physical and psychological development, as well as his assets, shall be taken into account.

*(Thus renumbered by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from former Article 151 to Article 164)*

*(Thus amended by Article 65 of Law No. 7654 of December 19, 1996, "Alimony Law").*

*(Sinalevi's Note: By means of Article 2 paragraph II) of the law that approves the Family Procedural Code, No. 9747 of October 23, 2019, this numeral will be amended. Pursuant to Transitory III of the aforementioned law said amendment will come into effect as of October 1, 2022, so as of that date the new text will be as follows: "Article 164-Alimony. Benefits included. Food shall be understood as that which provides sustenance, room, clothing, medical assistance, entertainment, transportation and others, in addition to everything related to the education, instruction or training for the work of minor children or persons with disabilities, all in accordance with the economic possibilities and the capital belonging to or possessed by the person who is to provide it. The needs and the standard of living accustomed by the beneficiary will be taken into account, for his normal physical and psychological development, as well as his assets.*

*The persons obliged to pay alimony must pay, on a mandatory basis and as a Christmas bonus, within the first twenty days of December of each year, an installment equal to that paid as ordinary, without the need for it to be ordered by resolution.*

*As the case may be, depending on whether the defendant receives the benefit of school salary in his income and it concerns beneficiaries who need additional expenses for the academic activity, it is mandatory the payment of a fee equal to the ordinary one, this in the month of January of each year for these purposes. If the judicial authority so provides, a fixed annual amount may be established for this concept of beginning lessons for those who do not receive school salary in their salary income, which shall be established depending on the needs of this type of beneficiaries and the income of those obligated).".*

#### Article sheet

Article 165.- Provisional or definitive alimony payments shall be fixed in a sum payable in biweekly or monthly installments in advance. They shall be enforceable by means of physical constraint, as well as the Christmas bonus and the payment of the agreed tracts.

The alimony shall be paid in local currency, unless otherwise agreed, in which case, it shall be paid in the stipulated currency.

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from former Article 152 to 165).*

[http://www.pgrweb.go.cr/scij/busqueda/normativa/normas/nrm\\_texto\\_completo.aspx?nValor1=1&nValue2=970](http://www.pgrweb.go.cr/scij/busqueda/normativa/normas/nrm_texto_completo.aspx?nValor1=1&nValue2=970)



*(Thus amended by Article 65 of Law No. 7654 of December 19, 1996, "Alimony Law").*

*(Sinalevi's Note: By means of Article 2 paragraph II) of the law that approves the Family Procedural Code, No. 9747 of October 23, 2019, this numeral will be amended. Pursuant to Transitory III of the aforementioned law said amendment will come into effect as of October 1, 2022, so as of that date the new text will be as follows: "Article 165- Alimony payments. Form of payment. Alimony payments shall be fixed in a sum payable in biweekly or monthly installments in advance. They shall be enforceable by means of physical constraint, the same as the Christmas bonus installment, the school salary or the start-of-lesson expenses and the payment of the agreed tracts.*

*The maintenance fee shall be paid in local currency, unless otherwise agreed, in which case it shall be paid in the agreed currency").*

### **Article sheet**

Article 166.- Maintenance is owed only to the extent that the property and work of the alimentary person do not satisfy it.

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from former Article 153 to Article 166).*

### **Article sheet**

Article 167.- The right to maintenance may not be waived or transmitted in any way. The maintenance obligation is imprescriptible, very personal and incompensable.

An immovable property that serves as a dwelling for the beneficiaries, or that, by its very nature and value, offers greater advantages for the beneficiaries, may be considered as an advance payment of the obligation, provided that the plaintiff agrees.

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from former Article 154 to 167).*

*(Thus amended by Article 65 of Law No. 7654 of December 19, 1996, "Alimony Law").*

### **Article sheet**

[http://www.pgrweb.go.cr/scij/busqueda/normativa/normas/nrm\\_texto\\_completo.aspx?nValor1=1&nValue2=970](http://www.pgrweb.go.cr/scij/busqueda/normativa/normas/nrm_texto_completo.aspx?nValor1=1&nValue2=970)

Article 168.- While the maintenance claim is being processed, once the relationship has been proved, the judge may fix a provisional quota to any of the persons indicated in the following article, keeping the preferential order established therein. This quota shall be prudentially fixed at a sum capable of meeting, for the time being, the basic needs of the maintenance and shall subsist as long as it is not varied in the judgment.

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from the former Article 155 to Article 168)*

*(Thus amended by Article 65 of Law No. 7654 of December 19, 1996, "Alimony Law").*

*(Sinalevi's Note: By means of Article 2 paragraph II) of the law that approves the Family Procedural Code, No. 9747 of October 23, 2019, this numeral will be amended. Pursuant to transitory III of the aforementioned law said modification will come into effect as of October 1, 2022, so as of that date the new text will be as follows: "Article 168- Restitution of alimony installments fixed without right. When in the anticipated judgment of alimony a maintenance installment is fixed and in the process it is decided that the defendant debtor is not a preferential obligor or that the maintenance creditor is not entitled to maintenance, whoever has paid it, his representatives or the heirs may demand the restitution of the amount covered.").*

## Article sheet

Article 169.- They shall owe food:

1.- The spouses between themselves.

2.- Parents to their minor or incapable children and children to their parents.

*(Sinalevi's Note: By means of Article 3° of Law No. 10166 of March 30, 2022, "Reforming several laws for the recognition of rights to foster mothers and fathers", the previous paragraph will be amended. In accordance with the aforementioned law, the same shall enter into force six months after its publication, that is to say on November 6, 2022, so that as of that date the new text shall be the following: "2- Parents to their minor or incapable sons and daughters and sons and/or daughters to their fathers and mothers, including foster parents").*

Siblings to minor siblings or to those who have a disability that prevents them from fending for themselves; grandparents to minor grandchildren and to those who, due to a disability, are unable to fend for themselves, when the immediate relatives of the aforementioned breadwinner are unable to provide them with food or when they are unable to do so; and grandchildren and great grandchildren to grandparents and great grandparents under the same conditions indicated in this subsection.

*(As amended by Article 3 of Law No. 7640 of October 14, 1996)*

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from former Article 156 to 169).*

## Article sheet

Article 170.- The spouses may claim alimony for themselves and their common children, even if they are not separated.

Both the mother and the father may claim maintenance for their children born out of wedlock in the circumstances of the preceding paragraph.

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from former Article 157 to 170).*

*(Thus amended by Article 65 of Law No. 7654 of December 19, 1996, "Alimony Law").*

#### Article sheet

Article 171.- The alimony debt shall have priority over any other debt, without exception.

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from former Article 158 to 171).*

#### Article sheet

Article 172.- Past alimony cannot be collected for more than the twelve months preceding the claim, and that in case that the alimentary has had to contract debts in order to live. All without prejudice to the provisions of Article 96.

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from former Article 159 to 172).*

#### Article sheet

Article 173.- There shall be no obligation to provide maintenance:

- 1.- When the debtor cannot provide them without neglecting his maintenance needs or without failing to fulfill the same obligation of maintenance to other persons who, with respect to him, have a preferential title.
- 2.- When the recipient no longer needs them.
- 3.- In case of injury, fault or serious damage of the breadwinner against the breadwinner, except between parents and children.

*(The Constitutional Chamber, through Resolution No. 3682 of March 6, 2009, interpreted the previous paragraph "in the sense that the hypotheses regulated therein, namely: injury, misconduct or serious damages of the breadwinner against the*

*The following table shows that the maintenance obligation may be invoked and eventually recognized as grounds for the declaration of non-existence of the maintenance obligation, not only in the cases expressly established, but also in those processes where the maintenance obligor is the son or daughter and the maintenance creditor and beneficiary is the father or mother").*

4.- When the spouse has incurred in voluntary and malicious abandonment of the home or it is proven that he/she commits or committed adultery.

5.- When the maintenance personnel have reached their majority, unless they have not completed their studies to acquire a profession or trade, as long as they do not exceed twenty-five years of age and obtain good performance with a reasonable academic load. These requirements must be proven when filing the claim, providing information on the academic load and performance.

6.- Between former spouses, when the beneficiary remarries or establishes a de facto cohabitation.

7.- When the plaintiff has failed to comply with the maintenance duties with respect to the defendant, if legally he should have complied with such obligation.

The grounds for exemption from the maintenance obligation shall be proven before the authority hearing the maintenance claim. However, if in a process of divorce, judicial or criminal separation, the judge decides otherwise, it will be as provided.

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from former Article 160 to 173).*

*(Thus amended by Article 65 of Law No. 7654 of December 19, 1996, "Alimony Law").*

## **Article sheet**

Article 174.-The maintenance benefit may be modified by the change of circumstances of the giver or the recipient.

*(As amended by Article 3 of Law No.7640 of October 14, 1996)*

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from former Article 161 to 174).*

## **Article sheet**

### **TITLE V**

### **Guardianship**

## CHAPTER I

### Different types of Guardianship

Article 175.- A minor who is not under parental authority shall be subject to guardianship.

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from the former Article 162 to Article 175)*

*(Sinalevi's Note: By means of Article 2 paragraph II) of the law that approves the Family Procedural Code, No. 9747 of October 23, 2019, this numeral will be amended. Pursuant to transitory III of the aforementioned law said amendment will come into effect as of October 1, 2022, so as of that date the new text will be as follows: "Article 175- Guardianship. Minor who does not have the attributes of parental responsibility. The minor who does not have the attributes of parental responsibility of either of the parents shall be subject to guardianship.").*

#### Article sheet

Article 176- Those who exercise parental authority may appoint, in a will, a guardian for their children when the latter are not to be subject to the parental authority of the surviving father. In the event that the father of the minor has killed his mother or has attempted to do so, the maternal relatives of the minor shall be considered in priority to exercise their guardianship, upbringing and education, even in opposition to the stipulations of the father.

*(As amended by Article 13 of the Law on Comprehensive Reparation for Survivors of Femicide, No. 10263 of May 6, 2022).*

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from former Article 163 to 176).*

*(Sinalevi's Note: By means of Article 2 paragraph II) of the law that approves the Family Procedural Code, No. 9747 of October 23, 2019, this numeral will be reformed. Pursuant to transitory III of the aforementioned law said amendment will come into effect as of October 1, 2022, so that as of that date the new text will be as follows: "Article 176- Guardian. Appointment in will. Those who exercise the attributes of parental responsibility may appoint in a will a guardian for their children, when the latter are not to be subject to the parental authority of the surviving parent").*

#### Article sheet

Article 177- In the absence of a testamentary guardian, the

guardianship shall be exercised by: 1°- The

grandparents;

2°- siblings by blood; and 3°-

uncles.

When there are several relatives of the same degree, the Court must appoint as guardian the relative who meets the best conditions of knowledge and familiarity with the minor, solvency, suitability and preparation, which constitutes a guarantee for the satisfactory performance of his position.

In the event that the father of the minor has killed his mother or has attempted to do so, the maternal relatives of the minor shall be given priority in the care, upbringing and education of the minor.

*(As amended by Article 13 of the Law on Comprehensive Reparation for Survivors of Femicide, No. 10263 of May 6, 2022).*

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from the former Article 164 to Article 177)*

#### **Article sheet**

Article 178: When there are justified reasons, the Court may vary the precedence established in the preceding article.

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from the former Article 165 to Article 178)*

#### **Article sheet**

In the absence of the relatives called by law to the guardianship, the Court shall appoint the person who meets the conditions indicated in the penultimate paragraph of the preceding article.

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from former Article 166 to 179).*

#### **Article sheet**

Article 180.- No one may have more than one guardian.

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from former Article 167 to Article 180).*

## Article sheet

Article 181.- When the person preferably called by law to guardianship is unable to exercise it because he is a minor or incapacitated, he retains his rights for when his incapacity disappears.

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from former Article 168 to 181).*

## Article sheet

When the testator appoints several guardians to succeed each other, and does not fix the order in which they shall exercise the guardianship, they shall perform it in the same order in which they were appointed.

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from former Article 169 to Article 182).*

## Article sheet

Article 183.- Whoever has collected a foundling or abandoned child shall be preferred in the guardianship.

When a minor not subject to parental authority is placed in a social welfare institution, the director or head of the institution shall be his guardian and legal representative from the moment of admission.

The office does not require discernment, but the guardian is obliged to render to the Court an annual report on the situation of the ward and his or her assets.

It shall also inform the Court of the minor's entry or exit from the establishment.

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from former Article 170 to 183).*

*(Sinalevi's Note: By means of Article 2 paragraph II) of the law that approves the Family Procedural Code, No. 9747 of October 23, 2019, this numeral will be amended. Pursuant to Transitory III of the aforementioned law said amendment will come into effect as of October 1, 2022, therefore, as of that date the new text will be as follows: "Article 183- Guardian. Right of priority. Whoever has assumed a foundling or abandoned child shall be preferred in the guardianship.*

*When a minor not subject to attributes of parental responsibility is placed in a social welfare institution, the director or head of the institution shall be his guardian and legal representative from the moment of admission.*

*The office does not require discernment, but the guardian is obliged to render to the court an annual report on the situation of the ward and his or her assets.*

*Likewise, it shall inform the court of the minor's entry or exit from the establishment. All of the above, without prejudice to the actions that PANI may take by virtue of its purposes and attributions and within the framework of the best interests of the minor").*

#### **Article sheet**

Article 184.- The Court shall provide a guardian to a minor who does not have one, whenever the fact comes to its knowledge by any means.

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from former Article 171 to 184).*

#### **Article sheet**

Article 185.- The National Child Welfare Agency shall ensure that there are no minors without a guardian and shall be heard whenever the Court must interpose its authority in any guardianship business.

*(Thus amended by Article 219, item No. 8508 of April 28, 2006, in the sense that references to the participation of the Office of the Attorney General of the Republic in non-contentious judicial activities are deleted)*  
*pt; font-family:Verdana!important;color:black'>(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from former Article 172 to Article 185).*

#### **Article sheet**

Article 186.- Discernment and revocation shall be recorded in the Public Registry.

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from former Article 173 to 186).*

#### **Article sheet**

## **CHAPTER II**



## Incapacities, Excuses and Removal of the Guardianship

### Article 187:

- 1.- Neither a minor nor a person declared to be in a state of interdiction.
- 2.- The person who presents a disability that makes it difficult for him/her to personally deal with his/her own business.
- 3.- Whoever has debts with the minor, unless the testator has named him/her with knowledge of the debt and has expressly stated so in the will.
- 4.- The one who has pending litigation of his own or of his ascendants, descendants or spouse with the minor.
- 5.- Whoever does not have domicile in the national territory.
- 6.- He who has been removed from another guardianship for non-compliance with his obligations and he who, upon rendering accounts, has had them rejected as inaccurate.
- 7.- Whoever has incurred in serious offense or damage against the minor or his parents.
- 8.- Whoever has no known trade or livelihood, or is notoriously of bad conduct.
- 9.- The officers or employees of the Court hearing the case, except in the case of legitimate or testamentary guardianship.
- 10.- Whoever has been deprived of parental authority.

*(As amended by Article 3 of Law No. 7640 of October 14, 1996)*

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from former Article 174 to 187).*

*(Sinalevi's Note: By means of Article 2 paragraph II) of the law that approves the Family Procedural Code, No. 9747 of October 23, 2019, this numeral will be reformed. Pursuant to transitory III of the aforementioned law said amendment will come into effect as of October 1, 2022, so that as of that date the new text will be as follows: "Article 187- Guardian. Impediments to his appointment. He/she may not be a guardian:*

- 1) A minor.*
- 2) The person to whom such impediment has been established in a judicial resolution, by virtue of his or her disability status.*
- 3) Whoever owes debts to the minor, unless the testator has named him/her with knowledge of the debt and has expressly stated so in the will.*
- 4) The one who has pending litigation of his own or of his ascendants, descendants or spouse with the minor.*
- 5) Who has no domicile in the national territory.*

- 6) *He who has been removed from another guardianship for failure to fulfill his obligations and he who, when rendering accounts, has had them rejected as inaccurate.*
- 7) *Whoever has incurred in serious offense or damage against the minor or his parents.*
- 8) *Whoever has no known trade or livelihood, or is notoriously of bad character.*
- 9) *The judicial officers hearing the case, except in the case of legitimate or testamentary guardianship.*
- 10) *Whoever has been deprived of the attributes of parental responsibility.").*

### Article sheet

Article 188.- A guardian may be excluded from the guardianship if he/she has not promoted the inventory within the term of law.

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from the former Article 175 to Article 188)*

### Article sheet

Article 189.- He shall be removed from the guardianship:

- 1.- Whoever misconducts himself with respect to the minor or in the administration of his property.
- 2.- The person declared in a state of interdiction, the unfit or impeded to exercise guardianship, as soon as his incapacity or impediment occurs.

*(As amended by Article 3 of Law No. 7640 of October 14, 1996)*

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from former Article 176 to 189).*

### Article sheet

Article 190.- He may be excused from serving the guardianship:

- 1) The one in charge of another guardianship;

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- 2) Older than sixty years of age;
- 3) Whoever is unable to attend the guardianship without notoriously neglecting his family obligations;
- 4) He who is so poor that he cannot attend the guardianship without detriment to his subsistence;
- 5) Whoever has to be absent from the Republic for more than one year.

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from the former Article 177 to Article 190)*

#### **Article sheet**

Article 191.- The grandparents, siblings and uncles of the ward must accept the guardianship, from which they cannot be excused except for legitimate cause.

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from former Article 178 to 191).*

#### **Article sheet**

The stranger whom the Court appoints is not obliged to accept the guardianship; but once admitted, he may not be excused from continuing to carry it except for a supervening cause after the acceptance.

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from former Article 179 to 192).*

#### **Article sheet**

Article 193.- The testamentary guardian may excuse himself without cause from accepting the guardianship; but if he does not admit it, or does not enter into exercise, or is removed from it by his fault, he loses what the testator has left him, unless the testator has provided otherwise.

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from former Article 180 to 193).*

## Article sheet

Article 194.- The persons referred to in Article 177 (\*) who are excused from serving the guardianship, may be compelled to accept, when the reason for the excuse ceases to exist.

(\*) (Current Article 190)

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from former Article 181 to 194).*

## Article sheet

Article 195.- The excuse must be presented within eight days following the notification of the appointment. Outside this term it shall not be admitted. There are no terms for the presentation of the supervening excuse.

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from the former Article 182 to Article 195)*

## Article sheet

Article 196.- The relatives called to the guardianship, who through their fault do not exercise it, who are removed for bad administration, or condemned for malice in the trial of accounts, lose the right to inherit the ward if he/she dies without a will, within or outside the minority, they are obliged to pay damages and moral damage caused.

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from former Article 183 to 196).*

## Article sheet

*(Sinalevi's Note: By means of article 4 paragraph II) of the law that approves the Family Procedural Code, No. 9747 of October 23, 2019, this numeral will be repealed. In accordance with transitory III of the aforementioned law, said modification will enter into force as of October 1, 2022, therefore, as of that date the respective repeal will be made).*

Article 197.- While the guardian does not have the administration of the guardianship, the Court shall provide for the care of the minor and shall appoint an interim administrator of the assets, who shall be subject to the obligations established for the guardian, as applicable.

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from former Article 184 to 197).*

#### Article sheet

When the guardian neglects his duties towards the person of the minor, he may be removed by the court upon request of any person; and if he does not diligently administer the property of the minor, his removal may be demanded by any interested party.

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from former Article 185 to 198).*

#### Article sheet

### CHAPTER III

#### Administration Guarantees

Article 199.- The guardian must guarantee the administration, and the Court shall not give it to him before this requirement is fulfilled.

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from former Article 186 to 199).*

#### Article sheet

Article 200.- They are exempted from guaranteeing:

The testamentary guardian whom the testator has expressly relieved of this obligation. However, he/she must provide a guarantee when, after the appointment, a cause unknown to the testator has arisen that makes the guarantee necessary, in the judgment of the Court.

The spouse who appoints his or her spouse as guardian of the children who are not his or her own cannot exempt him or her from the guarantee;

2º.- The guardian of the abandoned minor, when the person or the director of the institution that took in and fed the minor is the guardian; and

3º.- The guardian who does not administer assets.

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from former Article 187 to 200).*

## Article sheet

Article 201.- It must be guaranteed for the administration of the guardianship:

The value of the rents, products and fruits of the real estate, regulated by experts, for the average yield term of two years;

2º.- The amount of the movable goods and that of the belongings and livestock of the rural properties. The guarantee must be increased or may be decreased according to the increase or decrease in the value of the numbered goods.

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from former Article 188 to 201).*

## Article sheet

Article 202.- The guarantee of the administration shall not be cancelled, except when the accounts of the guardianship have been approved and cancelled.

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from former Article 189 to 202).*

## Article sheet

Article 203.- The guarantee shall consist of a cash deposit, mortgage, fidelity policy of the National Insurance Institute or bonds of the State and its institutions, the latter appreciated at their commercial value, as certified by a sworn broker. The amount of the guarantee shall amply cover the responsibilities of the guardian, in accordance with Article 188 (\*) and at any time its value depreciates, it shall be supplemented.

However, a fiduciary guarantee or simple surety bond shall be admitted when the guardian is of notorious good conduct and the amount to be guaranteed does not exceed five thousand colones.

In the case of bonds, they will be deposited in the banking institution that administers the judicial deposits and the guarantor may, with the Court's authorization, substitute those that are drawn or matured for others of the same type and value, and withdraw and cash the matured interest coupons.

The Court may also, if it deems it necessary for the improvement of the guarantee, have the amount of the bonds due or to be drawn by lot and of the interest coupons due, deposited to its order as part of the guarantee.

(\*) (Current Article 201)

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from former Article 190 to 203).*

### Article sheet

When the capital to be administered consists of government bonds or other securities or income securities of that nature, they may be deposited in a State Bank in the name of the ward, and the guardian shall guarantee the amount of the income they produce within a term of two years. Once the guarantee has been surrendered, the guardian may be ordered to deliver the interest coupons to the guardian at each maturity period. The depositary Bank is empowered to substitute the securities that are drawn and matured, for others of the same nature, with the intervention and agreement of the guardian, placing the proceeds or profit of the renewal at the order of the Court, if the new security is acquired at a discount.

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from former Article 191 to 204).*

### Article sheet

The guardian shall proceed to the inventory of the minor's assets, within thirty days following the acceptance of the office, term that may be prudentially extended by the Court for a period of sixty days according to the circumstances.

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from former Article 192 to Article 205).*

### Article sheet

Article 206.- If the inventory finds assets not included or by any title the minor's estate is increased with new assets, it shall be added to the previous inventory.

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from former Article 193 to 206).*

#### Article sheet

Article 207.- The inventory of assets may be attended by a minor who has reached the age of 15 years.

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from the former Article 194 to Article 207).*

#### Article sheet

Article 208.- The obligation to draw up an inventory cannot be waived.

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from former Article 195 to 208).*

#### Article sheet

Article 209.- The credit of the guardian against the ward shall be recorded in the inventory. The Court shall request it for this purpose and shall record this circumstance.

The tutor loses his credit, if requested by the Court he does not express it, unless he proves that when the inventory was drawn up he was not aware of its existence.

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from former Article 196 to 209).*

#### Article sheet



Article 210.- The guardian who succeeds others shall receive the assets according to the previous inventory and shall note the differences. This operation shall be made with the same formalities of the inventory.

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from the former Article 197 to Article 210)*

#### Article sheet

Article 211: Once the inventory has been made, the guardian is not allowed to prove against it to the detriment of the ward, neither before nor after the majority of the ward.

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from the former Article 198 to Article 211)*

#### Article sheet

Before having received the assets of the ward by inventory, the guardian may not take any part in the administration of said assets.

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from former Article 199 to 212).*

#### Article sheet

### CHAPTER IV

#### Guardianship Administration

The ward owes obedience and respect to the guardian. The latter has with respect to the former, the rights and obligations of the parents with the limitations that the law establishes.

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from former Article 200 to 213).*

#### Article sheet

The minor shall be fed and educated according to his possibilities.

Upon the guardian entering upon the exercise of his office, he shall cause the Court to fix the amount to be expended in the performance of those duties.

The sum designated by the Court, as well as that fixed by the testator for that purpose, may be altered by judicial decision, taking into account the increase or decrease of the ward's estate and other circumstances.

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from the former Article 201 to Article 214).*

### Article sheet

Article 215.- The guardian must, within thirty days after the inventory has been presented and each year when presenting the account provided for in Article 202 (\*), submit for the approval of the Tribunal the budget of administrative expenses for the following year. He must also obtain authorization from the Court for all extraordinary expenses.

Judicial approval does not exempt the guardian from justifying the use of the budgeted sums.

*(\*) (Current Article 219)*

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from the former Article 202 to Article 215)*

### Article sheet

Article 216.- The guardian needs judicial authorization, which the Court shall give him/her as long as he/she proves the manifest need or use:

1. To alienate or encumber real property of the ward or securities giving a fixed and certain income.

In this case, the sale shall be made by public auction and the price fixed by expert appraisal shall serve as the basis.

The authorization will not be necessary when the sale is by virtue of third party rights, or by compulsory expropriation.

In the case of execution, the common provisions on pricing shall be observed.

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2. To proceed with the division of property that the ward owns with others in undivided ownership;
3. To enter into compromise or transaction on rights or property of the minor;
4. To borrow or lease money on behalf of the minor;
5. For payment of claims against the minor or payment of claims against the minor by the minor's spouse, ascendants or siblings; and
6. To repudiate inheritances, legacies or donations. Accept without need of authorization the referred inheritances of the minor.

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from the former Article 203 to Article 216)*

#### **Article sheet**

Article 217.- The guardian is prohibited:

1.- To contract by himself or by interposite person with the minor, or to accept against him, rights, actions or credits, unless they result in legal subrogation. This prohibition also applies to the spouse, ascendants, descendants and siblings of the guardian.

To dispose, free of charge, of the assets of the minor or to receive donations from him between living persons or by will, or from the former ward, except after the administration accounts have been approved or cancelled, or when the guardian is an ascendant or sibling of the minor.

3.- Leasing the minor's property for more than three years.

Accepting the institution of beneficiary in insurance policies subscribed by the ward. The same prohibition shall apply to their spouse, ascendants, descendants and siblings, unless they are ascendants or siblings of the ward.

*(As amended by Article 3 of Law No. 7640 of October 14, 1996)*

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from the former Article 204 to Article 217)*

#### **Article sheet**

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Article 218.- In the acts or contracts executed or entered into by the guardian on behalf of the ward, this circumstance shall be stated, under penalty of considering the act executed on behalf of the guardian, when it is detrimental to the ward.

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from the former Article 205 to Article 218).*

## Article sheet

### CHAPTER V

#### Accounts and mode of termination of the Guardianship

Article 219.- The guardian shall submit to the Court, on an annual basis, a statement of the minor's assets, with a note of the expenses incurred and sums received during the previous year.

Relatives called to the ward's intestate estate may require the guardian to render the account annual.

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from former Article 206 to 219).*

## Article sheet

Article 220.- The guardian or his heirs shall render an account of the administration to the minor or his representatives within sixty days, counted from the day on which the guardianship ended. The Judge may extend this term for another sixty days, when there is just cause.

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from former Article 207 to 220).*

## Article sheet

Article 221.- The accounts must be accompanied by their supporting documents. Only those expenses for which it is not customary to collect receipts may be excused from being audited.

The final account must be rendered at the place where the guardianship is performed, or if the minor prefers, at the guardian's domicile.

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*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from former Article 208 to 221).*

#### **Article sheet**

Article 222.- The guardian shall be paid:

1. The expenses of rendering of accounts that it has anticipated;
2. All expenses legally incurred, even if they have not resulted in any benefit to the minor, if this has not occurred through no fault of the guardian; and 3. The value of his fees.

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from former Article 209 to 222).*

#### **Article sheet**

Article 223.- The guardian shall charge a fee of twenty-five percent of the annual liquid yield of the minor's assets, on the first one thousand colones; from more than one thousand to five thousand, twenty percent; from more than five thousand to ten thousand, fifteen percent; and from the sum exceeding ten thousand, ten percent.

When the testator has fixed the amount of fees and it is less than what the guardian could charge for him according to the rate indicated, he shall be entitled to collect the difference.

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from former Article 210 to Article 223).*

#### **Article sheet**

Article 224: The final account shall be discussed by the ward when he/she is of legal age.

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from former Article 211 to 224).*

#### Article sheet

Article 225.- In case the administration passes to another person, the new guardian is obliged to demand and discuss judicially the account of his predecessor and shall be liable, failing to do so, for the damages suffered by the minor.

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from former Article 212 to 225).*

#### Article sheet

Article 226.- The account shall be discussed by the procedure of the incidents and shall not be closed except with judicial approval.

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from former Article 213 to 226).*

#### Article sheet

Article 227.- The guardian shall pay interest at the rate of 12% per annum on the balance due against him, from the day the account is closed or from the day he is in default in presenting it; and he shall in turn charge 8% per annum on the balance due in his favor, from the moment he asks for it, after the account has been closed. The guardian also owes interest at 12% per annum on the sum that he has retained in his possession without using it, if it is easy to do so, and he charges it in turn at 8% per annum on the advances that he has made.

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from former Article 214 to 227).*

#### Article sheet

Article 228.- Until six months after the rendering of accounts, the guardian and the former ward may not make any agreement. The one made in spite of this prohibition shall be valid against the guardian.

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from former Article 215 to 228).*

## Article sheet

Article 229.- The guardian shall return the assets to the ward at the end of the guardianship, without waiting for the rendering of accounts. The Court may set a prudential term for the delivery of the assets, whose nature does not allow immediate return.

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from former Article 216 to 229).*

## Article sheet

### TITLE VI SINGLE

#### CHAPTER

#### Guardianship

**Article 230.-** In order to guarantee the safe and effective exercise of the rights and obligations of persons of legal age with intellectual, mental and psychosocial disabilities, within a framework of respect for their will and preferences, without conflict of interest or undue influence, the safeguard for the legal equality of persons with disabilities is established, which shall be proportionate and adapted to the circumstance of the person. This procedure will be processed in accordance with the provisions of the Law for the Promotion of Personal Autonomy of Persons with Disabilities and the Code of Civil Procedure.

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from former Article 217 to 230).*

*(Thus amended by Article 40 of the Law for the Promotion of Personal Autonomy of Persons with Disabilities, No. 9379 of August 18, 2016).*

## Article sheet

### CHAPTER II

#### Care

*(Thus added to the previous chapter by Article 32 of the Law Creating the National System of Care and Support for Adults and Elderly People in a Situation of Dependency (Sinca), No. 10192 of April 28, 2022).*

Article 231- Care shall be understood as the actions that people require to meet their basic, educational, health, protection, nutrition, recreation, accompaniment needs, including stimulation for the development of skills, competencies, activities of daily living and others; in accordance with the situation of dependency of the person subject to care and support.

*(Thus added by Article 32 of the Law on the Creation of the National System of Care and Support for Adults and Elderly People in a Situation of Dependency (Sinca), No. 10192 of April 28, 2022).*

#### **Article sheet**

Article 232- Elderly persons shall be subject to care by sons and daughters, grandsons, granddaughters, brothers and sisters, without detriment to their right to independence and autonomy.

*(Thus added by Article 32 of the Law on the Creation of the National System of Care and Support for Adults and Elderly People in a Situation of Dependency (Sinca), No. 10192 of April 28, 2022).*

#### **Article sheet**

Article 233- Persons who, by virtue of the provisions of the preceding article, are obliged to guarantee the care of elderly relatives may request before a judge the lifting of this obligation, in the event of having suffered physical, psychological or sexual abuse, as well as abandonment by the person subject to care.

*(Thus added by Article 32 of the Law on the Creation of the National System of Care and Support for Adults and Elderly People in a Situation of Dependency (Sinca), No. 10192 of April 28, 2022).*

#### **Article sheet**

*(Repealed by Article 41 of the Law for the Promotion of Personal Autonomy of Persons with Disabilities, No. 9379 of August 18, 2016).*

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from the former Article 218 to Article 231)*

*(Thus modified by Article 32 of the Law Creating the National System of Care and Support for Adults and Elderly People in a Situation of Dependency (Sinca), No. 10192 of April 28, 2022, which transferred it from former Article 231 to 234).*

#### **Article sheet**

*(Repealed by Article 41 of the Law for the Promotion of Personal Autonomy of Persons with Disabilities, No. 9379 of August 18, 2016) Article 235.*



*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from former Article 219 to 232).*

*(Thus modified in its numbering by Article 32 of the Law Creating the National System of Care and Support for Adults and Elderly People in a Situation of Dependency (Sinca), No. 10192 of April 28, 2022, which transferred it from former Article 232 to Article 235)*

#### **Article sheet**

*(Sinalevi's Note: By means of article 4 paragraph II) of the law that approves the Family Procedural Code, No. 9747 of October 23, 2019, this numeral will be repealed. In accordance with transitory III of the aforementioned law, said modification will enter into force as of October 1, 2022, therefore, as of that date the respective repeal will be made).*

*(Repealed by Article 41 of the Law for the Promotion of Personal Autonomy of Persons with Disabilities, No. 9379 of August 18, 2016).*

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from former Article 220 to Article 233).*

*(Thus modified by Article 32 of the Law Creating the National System of Care and Support for Adults and Elderly People in a Situation of Dependency (Sinca), No. 10192 of April 28, 2022, which transferred it from former Article 233 to 236).*

#### **Article sheet**

*(Repealed by Article 41 of the Law for the Promotion of Personal Autonomy of Persons with Disabilities, No. 9379 of August 18, 2016).*

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from former Article 221 to Article 234).*

*(Thus modified by Article 32 of the Law Creating the National System of Care and Support for Adults and Elderly People in a Situation of Dependency (Sinca), No. 10192 of April 28, 2022, which transferred it from the former Article 234 to Article 237).*

#### **Article sheet**

*(Repealed by Article 41 of the Law for the Promotion of Personal Autonomy of Persons with Disabilities, No. 9379 of August 18, 2016).*

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from former Article 222 to 235).*

*(Thus modified in its numbering by Article 32 of the Law Creating the National System of Care and Support for Adults and Elderly People in a Situation of Dependency (Sinca), No. 10192 of April 28, 2022, which transferred it from former Article 235 to Article 238)*

#### **Article sheet**

*(Repealed by Article 41 of the Law for the Promotion of Personal Autonomy of Persons with Disabilities, No. 9379 of August 18, 2016).*

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from former Article 223 to 236).*

*(Thus modified by Article 32 of the Law Creating the National System of Care and Support for Adults and Elderly People in a Situation of Dependency (Sinca), No. 10192 of April 28, 2022, which transferred it from the former Article 236 to Article 239).*

#### **Article sheet**

*(Repealed by Article 41 of the Law for the Promotion of Personal Autonomy of Persons with Disabilities, No. 9379 of August 18, 2016).*

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from the former Article 224 to Article 237).*

*(Thus modified by Article 32 of the Law Creating the National System of Care and Support for Adults and Elderly People in a Situation of Dependency (Sinca), No. 10192 of April 28, 2022, which transferred it from former Article 237 to 240).*

#### **Article sheet**

*Article 241- (Repealed by Article 41 of the Law for the Promotion of Personal Autonomy of Persons with Disabilities, No. 9379 of August 18, 2016).*

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from the former Article 225 to Article 238).*

*(Thus modified in its numbering by Article 32 of the Law Creating the National System of Care and Support for Adults and Elderly People in a Situation of Dependency (Sinca), No. 10192 of April 28, 2022, which transferred it from former Article 238 to Article 241)*

#### **Article sheet**

[http://www.pgrweb.go.cr/scij/busqueda/normativa/normas/nrm\\_texto\\_completo.aspx?nValor1=1&nValue2=970](http://www.pgrweb.go.cr/scij/busqueda/normativa/normas/nrm_texto_completo.aspx?nValor1=1&nValue2=970)

*(Repealed by Article 41 of the Law for the Promotion of Personal Autonomy of Persons with Disabilities, No. 9379 of August 18, 2016) Article 242.*

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from former Article 226 to 239).*

*(Thus modified by Article 32 of the Law Creating the National System of Care and Support for Adults and Elderly People in a Situation of Dependency (Sinca), No. 10192 of April 28, 2022, which transferred it from the former Article 239 to Article 242).*

## **Article sheet**

*(Repealed by Article 41 of the Law for the Promotion of Personal Autonomy of Persons with Disabilities, No. 9379 of August 18, 2016).*

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from former Article 227 to 240).*

*(Thus modified in its numbering by Article 32 of the Law Creating the National System of Care and Support for Adults and Elderly People in a Situation of Dependency (Sinca), No. 10192 of April 28, 2022, which transferred it from former Article 240 to 243)*

## **Article sheet**

*Article 244-(Repealed by Article 41 of the Law for the Promotion of Personal Autonomy of Persons with Disabilities, No. 9379 of August 18, 2016).*

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from the former Article 228 to Article 241).*

*(Thus modified by Article 32 of the Law Creating the National System of Care and Support for Adults and Elderly People in a Situation of Dependency (Sinca), No. 10192 of April 28, 2022, which transferred it from former Article 241 to 244).*

## **Article sheet**

### **TITLE VII SINGLE**

#### **CHAPTER**

#### **De facto union(\*)**

*(\*)(Thus added this Title VII by Article 1° of Law No.7532 of August 8, 1995, "Adiciona Código de Familia para Regular la Unión de Hecho").*

Article 245- The public, notorious, unique and stable de facto union, for more than two years, between two persons who have the legal capacity to contract marriage, shall have all the patrimonial effects of a legally formalized marriage.

*(Thus added by Article 1 of Law No. 7532 of August 8, 1995, "Adding the Family Code to Regulate Domestic Partnership").*

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from former Article 229 to 242).*

*(Thus modified by Article 32 of the Law Creating the National System of Care and Support for Adults and Elderly People in a Situation of Dependency (Sinca), No. 10192 of April 28, 2022, which transferred it from former Article 242 to 245).*

*(As amended by the sole article of Law No. 10223 of May 5, 2022)*

## Article sheet

Article 246.- For the purposes indicated in the preceding article, any of the cohabitants or their heirs may request the Court to recognize the de facto union. The action shall be processed through the abbreviated process, regulated in the Code of Civil Procedure, and shall expire two years from the rupture of the cohabitation or the death of the deceased.

*(Thus added by Article 1 of Law No. 7532 of August 8, 1995, "Adding the Family Code to Regulate Domestic Partnership").*

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from former Article 230 to 243).*

*(Thus modified by Article 32 of the Law Creating the National System of Care and Support for Adults and Elderly People in a Situation of Dependency (Sinca), No. 10192 of April 28, 2022, which transferred it from former Article 243 to 246).*

*(Sinalevi's Note: By means of Article 2 paragraph II) of the law that approves the Family Procedural Code, No. 9747 of October 23, 2019, this numeral will be amended. Pursuant to transitory III of the aforementioned law said amendment will come into effect as of October 1, 2022, so as of that date the new text will be as follows: "Article 243- De facto union. Application for recognition. For the effects indicated in the previous article, any of the cohabitants or, in the case of a deceased cohabitant, through his succession, may request the recognition of such union. The action will expire in two years from the rupture of the cohabitation or from the death of the deceased cohabitant.*

*In addition, the cohabitants, by mutual consent, may request the recognition of the union once it has ended and with the same expiration period, through the procedure established in the Family Procedural Code, for which the requirements and form of procedure established in Article 48 of this Code must be followed, but the public deed that is granted must include the declarations of at least two persons stating the existence of the union and the requirements of the preceding article.").*

## Article sheet

Article 247.- The judicial recognition of the de facto union shall retrograde its patrimonial effects to the date on which such union was initiated.

*(Thus added by Article 1 of Law No. 7532 of August 8, 1995, "Adding the Family Code to Regulate Domestic Partnership").*

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from former Article 231 to 244).*

*(Thus modified in its numbering by Article 32 of the Law Creating the National System of Care and Support for Adults and Elderly People in a Situation of Dependency (Sinca), No. 10192 of April 28, 2022, which transferred it from former Article 244 to Article 247).*

## Article sheet

Article 248.- After the union has been recognized, the cohabitants may request alimony from each other.

When the cohabitation is terminated by an unjustified unilateral act of one of the cohabitants, the other may request alimony for himself, to be paid by the former, provided that he lacks the means to subsist.

*(Thus added by Article 1 of Law No. 7532 of August 8, 1995, "Adding the Family Code to Regulate Domestic Partnership").*

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from the former Article 232 to Article 245)*

*(Thus modified by Article 32 of the Law Creating the National System of Care and Support for Adults and Elderly People in a Situation of Dependency (Sinca), No. 10192 of April 28, 2022, which transferred it from former Article 245 to 248).*

*(Note by Sinalevi: By means of Article 1 of Law No. 10228 of May 5, 2022, it was agreed to interpret this paragraph in the sense that, for the purposes of proceedings relating to maintenance obligations between cohabitants, the verification of the existence of the de facto union must be made directly in the respective maintenance court, without the need to previously file another proceeding to make such verification before a family court).*

## Article sheet

*(Annulled by Resolution of the Constitutional Chamber No. 3858-99 of May 25, 1999.)*

*(Thus corrected by Article 2 of Law No. 7538 of August 22, 1995, which transferred it from former Article 233 to 246).*

*(Thus modified by Article 32 of the Law Creating the National System of Care and Support for Adults and Elderly People in a Situation of Dependency (Sinca), No. 10192 of April 28, 2022, which transferred it from former Article 246 to 249).*

It is effective six months after its publication.

*Communicate to the Executive Branch*

Legislative Assembly - San José, on the seventh day of the month of November nineteen hundred and seventy-three.

Presidential House - San José, on the twenty-first day of December, nineteen hundred and seventy-three.

## **Article sheet**

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