

China Just Changed Divorce Forever—And It’s Stirring Global Controversy

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China's revised divorce law, effective February 1, 2025, introduces significant legal changes aimed at reducing impulsive divorces and reinforcing family stability. While the law applies only in China, it offers important insights for American families and family law professionals. Here’s what you need to know:

Mandatory Cooling-Off Period

Couples seeking a mutual (uncontested) divorce in China must now undergo a 30-day cooling-off period before their divorce can be finalized. Either party can withdraw during this time, canceling the process. While this is intended to prevent rash decisions, critics warn it may prolong emotionally or physically unsafe relationships. Further, if the divorce matter is canceled if only one party decides to “withdraw” from the process, that power can be utilized to obtain an unfair result.

In the U.S., several states impose waiting periods before you can file for divorce, but few require couples to actively reaffirm the divorce after filing. This highlights a global trend toward slowing down divorce, for better or worse.

In New Jersey, unless all issues incident to a divorce are agreed upon amicably and quickly, the divorce process can take years. Our court system is weighed down with not enough judges or case workers to process and schedule matters as it is. If there were any further delays as part of the process, it would only serve to harm the parties involved. Further, in New Jersey, as long as one party wants to go through with a divorce, the other party cannot prevent same.

Stricter Property Rules: Title Wins

The most controversial change: a spouse can no longer claim an interest in property solely titled in the other spouse’s name unless they can prove a financial or labor contribution. This means non-working spouses, such as homemakers, may lose out on major marital assets.

In contrast, U.S. states typically consider non-financial contributions in equitable distribution. Still, the message is clear: documentation matters, and title ownership carries weight.

In New Jersey, as long as property was acquired between the date of the marriage and the date of the filing of the Complaint for Divorce with income or marital savings, etc., the property would be subject to equitable distribution. The title of the property does not matter for purposes of determining an interest in same. This is important because during a marriage, spouses are not concerned about what could happen if they divorce – they are living their life as a married couple. No one gets married thinking they will get a divorce. Accordingly, if one spouse has

better credit or the other spouse is away and unavailable to execute the closing documents, a deed may only be placed in one spouse's name alone. While it does not matter in New Jersey, the repercussions under the new law in China could be significant.

Equal Custody by Default

The new law in China also promotes shared parenting responsibilities. Courts are now encouraged to award joint custody unless one parent is clearly unfit. This aligns with a growing trend in the U.S. toward co-parenting and shared custody models that focus on the child's best interests.

Why This Matters in the U.S.

China's new law underscores several points relevant for U.S. families and attorneys:

- Don't overlook how property is titled
- Keep records of financial and household contributions
- Expect shared custody to be the norm
- Consult a lawyer early—especially in high-conflict or unsafe situations

Final Thought

While China's approach may not be replicated here, it illustrates how divorce laws shape family outcomes. For American families, it's a reminder to prepare wisely, know your rights, and seek guidance when navigating separation or divorce.