

DISCLAIMER: This document was produced in 2005 and is a summary of the laws of Kyrgyzstan that appertain to international parental child abduction, contact and relocation as they were at that time. **reunite** International Child Abduction Centre cannot vouch for the accuracy of this information for use in litigation and it is not intended to provide case specific advice.

KYRGYZSTAN

Overview

Article 1 of the 1993 Constitution establishes Kyrgyzstan as a secular, democratic republic. Article 12 states that the Constitution shall have the superior juridical force and laws and other normative acts shall be adopted on the basis of the Constitution. International treaties that have been ratified by the Kyrgyz Republic are considered to be a constituent and directly applicable part of the legislation of Kyrgyzstan. A draft Family Code was produced in 2002. This text was written assuming this draft was promulgated, however we have no confirmation of this at present.

The majority of the population of Kyrgyzstan are Muslim with a significant Russian Orthodox minority.

Court Structure

Chapter 6 of the Constitution establishes the court structure. The Supreme Court is the highest judicial body in the sphere of civil, criminal, and administrative court proceedings. The Supreme Court also supervises the operation of the local courts. The local courts are the Courts of Oblasts, the City of Bishkek Court and the District, City and Military Courts of the Kyrgyz Republic. These courts act as the courts of first instance and have jurisdiction over the majority of civil, administrative, economic and criminal cases.

The Higher Arbitration Court, Regional Arbitration Courts, and Arbitration Court of the City of Bishkek act as a system for the resolution of disputes in economic matters.

Aksakalis Courts or third party arbitration tribunals can be established in towns or other settlements to hear property, family disputes and other cases submitted to these courts by the consent of the parties to a dispute. These tribunals have authority to issue a decision provided the decision would not contradict the law. The decisions of Aksakalis Courts and third party arbitration tribunals can be appealed to the appropriate District or City Courts.

The Constitutional Court of the Kyrgyz Republic was established by The Law of the Constitutional Court as adopted on December 18th 1993.

Filiation

In accordance with Article 48 of the Family Code a child born to a married woman or to a woman whose marriage was terminated less than three hundred days before the birth of the child is presumed to be the child of the husband. If a child is born to an unmarried woman paternity is established by the joint application of the parents to the office for the registration of acts of civil status. Paternity may also be established by an order of the court. Article 53 of the same law states that children born to unmarried parents have the same rights and duties as children born to married parents with regard to their parents and relatives, provided that parentage has been registered.

Custody

Parents have joint rights and duties towards their children. Parental rights end when the child reaches the age of majority at eighteen, or marries. Parents can be deprived of their parental rights by a court order if they abuse their parental rights, ill-treat the children, are alcoholics or drug addicts, abandon the children or commit a crime against the children or spouse.

In the event of the separation of the parents conflicts regarding the upbringing of children can be resolved in court with the participation of the Guardianship Agency. The opinion of children who have reached the age of ten can be taken into account by the court in resolving disputes between the parents over the child's place of residence and upbringing.

Guardianship

The provisions on guardianship are contained in Chapter 20 of the Family Code. In Kyrgyzstan guardianship is the institution established for the care of orphans and neglected children under the age of eighteen.

Access

Article 55 of the Family Code states that each child has the right to contact his or her parents and relatives, even if the parents are separated or live in different countries. Article 66 establishes that the non-custodial parent should not have his or her access to the child impeded, unless this contact is detrimental to the interests of the child. If an agreement over contact arrangements cannot be reached the conflict should be resolved by a court contact order. A parent can request the involvement of the Guardianship Agency in the resolution of these issues.

Non-Muslim Family Law

Kyrgyzstan is a secular republic therefore the Family Code is applicable to all citizens irrespective of religion.

Nationality

Article 13 of the Constitution states that dual nationality is not recognised in the Kyrgyz Republic. A child born to parents who are citizens of the Kyrgyz Republic is a citizen of Kyrgyzstan irrespective of his or her place of birth. If the father is a citizen of the Kyrgyz Republic and the child is born in Kyrgyzstan, or if the child was born outside Kyrgyzstan but the father was a permanent resident of Kyrgyzstan at the time of birth, then the child acquires Kyrgyz citizenship. If the child is born outside of Kyrgyzstan to one parent with Kyrgyz citizenship and one with foreign citizenship, the citizenship of the child is established by the written agreement of both parents.

International Law

The Kyrgyz Republic ratified the UN Convention on the Rights of the Child in 1994.

Parental Child Abduction

The Penal Code of the Kyrgyz Republic provides penalties for abducting someone else's child.

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