

Divorce in China: A Step-by-Step Guide for Foreigners

General information, not legal advice. Laws and registry practice change — confirm your situation with a lawyer before acting.
(As of 2026)

1. First, work out which route is open to you

- China has two routes: divorce by agreement at a marriage registry (Civil Affairs Bureau), and divorce through the people's court.
- A registry divorce generally requires that your marriage was registered in mainland China. If you married abroad, you will usually need to go to court, even if you agree on everything.
- Both spouses must attend the registry in person, with a written divorce agreement covering children, property and debts. If either of you cannot or will not attend, the court route is the only option.
- Registry divorces involving a foreign national are handled at registries authorised for foreign-related matters. Since 10 May 2025, where one spouse is a mainland resident, you can use any such registry anywhere in China, not only the one at the Chinese spouse's hukou location. Check the office's appointment rules before you go.
- Agreeing does not rule out court: couples who married abroad can file jointly or have the court confirm their agreement through mediation.
- Chinese courts apply Chinese law to divorces decided in court (law of the forum). In a registry divorce, the parties may choose the law of either spouse's habitual residence or nationality.

2. Can a Chinese court hear your case?

- Generally, a Chinese court can hear a divorce where the defendant is domiciled or habitually resident in China, usually at the basic (district) people's court for that address.
- If the defendant lives outside mainland China, the court where the plaintiff is domiciled can often hear a divorce.
- There are special rules for Chinese citizens abroad, for example where a foreign court will not accept the case because of nationality.
- Before filing, compare China with your home country or country of residence: speed, cost, how custody and property are decided, and where the order will need to be enforced.
- Think about recognition early. A Chinese divorce may need formal recognition before it can be relied on abroad, and a foreign divorce needs recognition by a Chinese Intermediate People's Court before it can be used in China.

3. Divorce by agreement: step by step

- Agree a written divorce agreement covering who the children live with, visitation, child support, division of property and responsibility for debts.
- Both spouses apply in person at the registry with ID documents, the marriage certificate and the agreement.
- A 30-day cooling-off period starts from the application. Either spouse may withdraw during this period.
- After the 30 days, both must return in person within the following 30 days to receive divorce certificates. If you do not, the application is treated as withdrawn.
- The terms of the agreement are binding. Have it reviewed before you sign, especially the property clauses, because they are difficult to undo afterwards.
- Avoid a 'fake divorce' to get around home-purchase limits or debts: legally the divorce is real and the property terms bind you.

4. Court divorce: what to expect

- The court starts with mediation. If mediation fails and mutual affection has truly broken down, a divorce shall be granted.
- Statutory grounds include bigamy or cohabiting with another person, domestic violence, maltreatment or desertion, gambling or drug addiction not corrected after repeated admonition, and two years' separation due to discord.
- In practice, courts often refuse a first contested petition where there is no clear statutory ground. After a refusal, you generally cannot re-file within six months without new circumstances.
- If the court refuses a divorce and the spouses then live apart for a further year, a new petition shall be granted.
- A husband may not file during the wife's pregnancy, within one year after delivery, or within six months after termination of pregnancy, unless the wife files or the court considers it necessary.
- The 30-day cooling-off period does not apply to court divorces.
- Court filing fees for divorce are modest (generally RMB 50–300, plus a percentage for property over RMB 200,000). Lawyers' fees vary with complexity.

5. Children: custody, visitation and support

- For a child under two, direct custody is in principle with the mother.
- For a child aged eight or older, the court must respect the child's true wishes.
- Otherwise the court decides based on the child's best interests: who has been the main carer, stability, schooling, health and each parent's circumstances.
- Being a foreigner does not in itself count against you. Evidence of your day-to-day role in the child's life matters much more.
- The non-custodial parent has visitation rights; these may be suspended only if visitation would harm the child.
- Child support is generally 20%–30% of the paying parent's monthly total income for one child, and may be higher for two or more children but generally not above 50%.
- Mainland China is not a party to the Hague Child Abduction Convention. If you are worried about a child being taken to or from China, get advice early on prevention.

6. Property and debts

- Community property generally includes wages, business income, investment income and property acquired during the marriage, including inheritances and gifts unless designated to one spouse.
- Separate property includes pre-marital property, personal injury compensation, and property left or given to one spouse only.
- A written marital property agreement or prenuptial agreement can change these rules, if it is valid and consistent with how property is registered.
- If you cannot agree, the court divides property considering the interests of the children, the wife and the no-fault party.
- A spouse who hides, transfers or wastes community property, or invents debts, may receive a smaller share or none.
- Divorce damages may be available to a no-fault spouse in cases of bigamy, cohabitation, domestic violence, maltreatment, desertion or other serious fault.
- For real estate in China, Chinese law governs regardless of nationality. Property abroad may need action in that country.

7. Timelines and living abroad

- Simplified-procedure court cases are generally concluded within three months; ordinary procedure within six months, with extensions possible.
- If one spouse lives abroad, these limits do not apply. Service abroad through the Hague Service Convention or diplomatic channels can take many months.
- Where a spouse's address cannot be found, the court can use service by publication, which for a party with no domicile in China is deemed complete 60 days after publication (since 1 January 2024; 30 days for domestic service).
- Appeal period: 15 days after service of the judgment, or 30 days for a party with no domicile in China.
- You can often proceed through a lawyer under a notarised and apostilled power of attorney, although the court may sometimes require you to attend.
- Overall, a foreign-related contested divorce often takes 12 months or more. Plan visas, work and children's schooling accordingly.

8. Next steps

- Write down a short timeline of your marriage, separation and any key events.
- Gather the documents on our China Divorce Document Checklist.
- Keep evidence of your role in your children's lives and any incidents of violence or threats.
- Do not move large sums, sign agreements or leave China with the children before getting advice.
- If you are in danger, call the police (110) and ask about a personal safety protection order.
- Book a free, confidential 30-minute consultation with Choi & Huang (Info@ChoiAndHuang.com, +86 755 8888 6666). This guide is general information as of 2026, not legal advice.

**Need help with your case? Book a free, confidential 30-minute consultation:
Info@ChoiAndHuang.com · +86 755 8888 6666.**