

Provisional Minutes of the 25th Meeting of the Family Law Subcommittee of the Legislative Council (provisional translation)

On April 18, 2023, the 25th meeting of the Family Law Subcommittee of the Legislative Council was held at the Ministry of Justice (in person and online). Nearly all the members and non-voting members attended the meeting. The Chairman, Prof. OMURA Atsushi, presided over the meeting.

The Subcommittee reviewed and deliberated the pending issues on divorce and the related systems for the third round, with reference to the previous discussions, opinions received when the public comments were invited and the results of the interviews. During the meeting, the Subcommittee discussed the following issues.

First, based on the meeting materials, they discussed the rules concerning the equitable distribution of property, such as stipulating the factors to be considered. Many members and non-voting members agreed to revise the relevant rules. Some members suggested that the Subcommittee should continue its discussion on the specific rules for the factors to be considered when determining the equitable distribution of property.

Second, based on the meeting materials, they exchanged their views on the rules concerning parental authority after divorce. Article 819 of the current Civil Code provides that, without exception, only one parent is to be granted exclusive parental authority after divorce. The draft interim proposal finalized in November last year includes both Proposal A, stating that the rules of the current Civil Code are to be revised so that both parents will be able to have joint custody of a child after divorce, and Proposal B, stating that the rules of the current Civil Code should remain unchanged. Also, in the public comment procedure implemented until February 17th this year, opinions in favor of the Proposal A and in favor of the Proposal B were received.

From various perspectives, such as the best interests of the child, the Subcommittee discussed the direction of future discussions on major pending issues in finalizing the draft outlines for revision, whether Article 819 of the current Civil Code should be revised and grant joint custody for divorced parents. And during the discussion, although some members expressed their concerns about the revision of Article 819 of the Civil Code, most of the members and non-voting members agreed to revise Article 819 of the Civil Code so that both parents will be able to have joint custody of a child after divorce, in a case where both parents agree to do so.

The Subcommittee decided to discuss the pending issues in more detail in the next and subsequent meetings, concerning how parental authority should be exercised when both

parents have joint custody of a child and how to determine who should be granted parental authority in divorce trials.

※These provisional minutes are the summarized results of the Subcommittee meeting and are to be provided by the Secretariat of the Subcommittee in both Japanese and English on an as-needed basis. The official meeting minutes (in Japanese) will be published at a later date.