

Provisional Minutes of the 29th Meeting of the Family Law Subcommittee of the Legislative Council (provisional translation)

On July 18, 2023, the 29th 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, public comments, and the results of the interviews. During the meeting, the Subcommittee discussed the following issues based on the meeting materials.

First, discussions were held on the rules concerning child support payments, such as 1) the rule concerning child support payments provided for by law (a procedure for accepting a claim for a certain amount of child support payment as a remedy for parents getting a divorce by agreement without a child support agreement) and 2) the rule that enables multiple civil execution proceedings by filing a claim just once, as measures to reduce the burden on creditors in civil execution proceedings for child support payments.

As for 1), many members and non-voting members agreed that this procedure is necessary, but it was also pointed out that the legal nature of the procedure needs to be carefully reviewed, that the burden on debtors and due process of law also need to be taken into consideration, and that some of the methods to set the requirements and measure the effectiveness may decrease the willingness of parents to negotiate child custody arrangements. As for 2), many members and non-voting members agreed to establish procedures that enable multiple civil execution proceedings (the procedures for investigation into the debtor's assets and the judicial enforcement based on those procedures) if a claim is filed by a creditor. However, it was also suggested that even if such procedures were established, they should be able to respond to cases where, for example, more than one asset was found in the asset investigation process, and that consideration should be given to the types of assets targeted for this system should be taken into consideration in designing the process.

Second, discussions were held on 3) the rules concerning parent-child visitation when the parents are married, and 4) the rules concerning the judicial proceedings for parent-child visitation. As for 3), many members and non-voting members agreed to clarify the current court proceedings, to which Article 766 of the Civil Code applies *mutatis mutandis*. As for 4), many members and non-voting members agreed to establish a rule

that in judicial proceedings for parent-child visitation, the court may encourage persons concerned to conduct a trial for parent-child visitation hearing to determine the facts under certain conditions, and that the court may order a family court investigating officer to check the implementation status of the trial or may require both persons concerned to give a report on the results. On the other hand, there were different views regarding how to set requirements for parent-child visitation and third-party involvement in the judicial proceedings.

※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.