

Provisional Minutes of the 32nd Meeting of the Family Law Subcommittee of the Legislative Council (provisional translation)

On October 31, 2023, the 32nd 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 second draft of the proposed outline (hereinafter referred to as the “second draft”), which is composed of the meeting materials modified based on the deliberations at the 31st and 32nd meetings, and the supplementary explanation thereof were presented, and the Subcommittee discussed the following pending issues.

First, with regard to the rules concerning parental authority and child custody, many members and non-voting members expressed their support for the specific proposals included in item 2 of the second draft. However, some members and non-voting members suggested changes, whereas others expressed opposition to the changes, so they decided to discuss these issues further. The summaries of major changes are as follows:

1. In the second draft, it is proposed that, assuming that parents should share parental authority if it is granted to both parents, one parent may solely exercise parental authority over the relevant arrangements in the best interests of the child when urgent or emergency situations arise. However, some members requested that the sole exercise of parental authority should be expanded by amending the requirements for exceptional cases.
2. In the second draft, with regard to the factors the court should consider in determining whether parental authority should be granted to both parents or either of the parents, it is proposed that the court should determine either of the parents to have parental authority when it is found that the best interests of the child would be undermined if parental authority is granted to both parents. However, some members requested to add further requirements for granting parental authority to both parents.
3. In the second draft, it is proposed that there should be no requirement to determine the custodial parent when parental authority is granted to both parents after divorce. However, some members did not agree to this proposal and requested that determining the custodial parent should be required.
4. Specific proposals are not included in the second draft; however, some members expressed their views that a third party other than the parents should be able to

request the court to designate the third party as the person entitled to custody of the child.

The Subcommittee also discussed the rules concerning child support payments and decided to continue the discussion to the next meeting due to time constraints.

The Subcommittee will also discuss the rules concerning child support payments, and other arrangements (parent-child visitation, adoption, equitable distribution of property, etc.) included in the second draft at the next meeting.

※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.