

FAMILY LITIGATION ACT

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Act No. 4300, Dec. 31, 1990
Amended by Act No. 4423, Dec. 14, 1991
Act No. 4505, Nov. 30, 1992
Act No. 6626, Jan. 26, 2002
Act No. 6627, Jan. 26, 2002
Act No. 7405, Mar. 24, 2005
Act No. 7427, Mar. 31, 2005
Act No. 8433, May 17, 2007
Act No. 8435, May 17, 2007
Act No. 8715, Dec. 21, 2007

PART I GENERAL PROVISIONS

Article 1 (Purpose)

The purpose of this Act is to provide special cases of the procedure for litigation, non-litigation and conciliation for family affairs, on the basis of the dignity of personality and the equality of sexes, to maintain and improve family peace and the public morals of mutual aid among relatives.

Article 2 (Matters under Jurisdiction of Family Court)

(1) Examination and judgment on matters falling under any of the following subparagraphs (hereinafter referred to as the "family case"), shall be under the exclusive jurisdiction of the family court: *<Amended by Act No. 7427, Mar. 31, 2005; Act No. 8715, Dec. 21, 2007>*

(a) Family litigation cases:

(i) Cases of Category A:

- a. Nullity of a marriage;
- b. Nullity of a divorce;
- c. Nullity of an affiliation;
- d. Confirmation on whether or not there exists a relationship with a legitimate child;
- e. Nullity of an adoption;
- f. Nullity of a breach of adoption; and
- g. Nullity or restoration of a succession of the head of a family;

(ii) Cases of Category B:

FAMILY LITIGATION ACT

- a. Confirmation on whether or not there exists a relation of *de facto* marriage;
 - b. Revocation of a marriage;
 - c. Revocation of a divorce;
 - d. Judicial divorce;
 - e. Decision on who is a father;
 - f. Denial of a legitimate child;
 - g. Revocation of an affiliation;
 - h. Objection against an affiliation;
 - i. Request for an affiliation;
 - j. Revocation of an adoption;
 - k. Revocation of a breach of adoption;
 - l. Judicial breach of adoption;
 - m. Revocation of full adoption; and
 - n. Revocation of breach of full adoption; and
- (iii) Cases of Category C:
- a. Claim for compensation for damages due to a cancellation of an engagement, or an unlawful annulment of the relation of *de facto* marriage (including a claim against a third person), and a claim for restitution;
 - b. Claim for compensation for damages caused by a nullity or revocation of a marriage, or that of a divorce, or a divorce (including a claim against a third person), and a claim for restitution;
 - c. Claim for damages caused by a nullity or revocation of an adoption, or that of a breach of adoption, or a breach of adoption (including a claim against a third person), and for restitution; and
 - d. Claim for revocation of fraudulent act for the preservation of claim for division of property under Article 839-3 of the Civil Act and claim for restitution thereof; and
- (b) Family non-litigation cases:
- (i) Cases of Category D:
- a. Declaration of a quasi-incompetency or an incompetency pursuant to the provisions of Articles 9 through 14 of the Civil Act, and a revocation thereof;

FAMILY LITIGATION ACT

- b. Disposition as to the management of an absentee's property pursuant to the provisions of Articles 22 through 26 of the Civil Act;
- c. Declaration of a disappearance pursuant to the provisions of Articles 27 through 29 of the Civil Act, and a revocation thereof;
- d. Permission for a creation of the surname and its origin pursuant to the provisions of Article 781 (3) of the Civil Act;
- e. Permission for a modification of the agreement on matrimonial property pursuant to the provisions of the proviso of Article 829 (2) of the Civil Act;
- e-2. Permission for allowing the guardian to give his assent to adoption under the proviso of Article 869 of the Civil Act;
- f. Permission for the guardian's consent to an adoption or to a breach of adoption pursuant to the provisions of Articles 871 and 900 of the Civil Act (including the case of *mutatis mutandis* application by Article 906 of the same Act);
- g. Permission for an adoption of the ward by his guardian pursuant to the provisions of Article 872 of the Civil Act;
- g-2. Permission for allowing the consultation about the dissolution of adoption by the guardian of the adopted child or any other lineal ascendant of the adopted child's native family under Article 899 (2) of the Civil Act;
- g-3. Permission for full adoption under Article 908-2 of the Civil Act;
- h. Decision on the method of exercising a parental authority pursuant to the provisions of the proviso to Article 909 (2) of the Civil Act;
- i. Permission for an entrustment to a reformatory or correctional institution pursuant to the provisions of Articles 915 and 945 of the Civil Act (including the cases where each of the said paragraphs is applied *mutatis mutandis* pursuant to Article 948 of the same Act);
- j. Appointment and replacement of an administrator of property and a disposition of the property management pursuant to the provisions of Article 918 of the Civil Act (including the

FAMILY LITIGATION ACT

- case of *mutatis mutandis* application by Article 956 of the same Act);
- k. Appointment of a special representative under Article 921 of the Civil Act (including the cases where interests between a guardian and his/her ward, or among several wards conflict with each other);
 - l. Permission pursuant to the provisions of Article 927 of the Civil Act for a surrender or recovery of the rights of representation on juristic acts, and those of the management of property, by the person with parental authority;
 - m. Appointment or change of a guardian pursuant to Articles 936 and 940 of the Civil Act;
 - n. Permission for a surrender of authority by a guardian pursuant to the provisions of Article 939 of the Civil Act;
 - o. Permission for an extension of the period to prepare an inventory of property by a guardian, pursuant to the provisions of the proviso of Article 941 (1) of the Civil Act (including the case of *mutatis mutandis* application by Article 948 of the same Act);
 - p. Permission for placing an incompetent under restraint, etc. pursuant to the provisions of Article 947 (2) of the Civil Act;
 - q. Disposition as to the guardianship affairs pursuant to the provisions of Article 954 of the Civil Act (including the case of *mutatis mutandis* application by Article 948 of the same Act);
 - r. Payment of the remuneration to a guardian pursuant to the provisions of Article 955 of the Civil Act (including the case of *mutatis mutandis* application by Article 948 of the same Act);
 - s. Permission for an extension of the period of account of management at the time of terminating the guardianship, pursuant to the provisions of the proviso of Article 957 (1) of the Civil Act;
 - t. Appointment, filling up vacancy, replacement or dismissal of the family council members pursuant to the provisions of Articles 963 (1) (main sentence), 965 (2) and 971 of the Civil Act;

FAMILY LITIGATION ACT

- u. Convocation of the family council pursuant to the provisions of Article 966 of the Civil Act;
- v. Revocation of the written decision of the family council pursuant to the provisions of Article 967 (3) of the Civil Act;
- w. Judgment to substitute a decision of the family council pursuant to the provisions of Article 969 of the Civil Act;
- x. Permission for a surrender of membership from a family council pursuant to the provisions of Article 970 of the Civil Act;
- y. Disposition for the management of property in the process of litigation over the right of succession pursuant to the provisions of Article 994 of the Civil Act;
- z. Permission for an extension of the period for acceptance or renunciation of the inheritance pursuant to the provisions of the proviso of Article 1019 (1) of the Civil Act;
- aa. Disposition necessary for a preservation of the inherited property pursuant to the provisions of Article 1023 of the Civil Act (including the case of *mutatis mutandis* application by Article 1044 of the same Act);
- ab. Acceptance of the report on a qualified acceptance or renunciation of inheritance, or that of the report on a revocation thereof pursuant to the provisions of Articles 1024 (2), 1030 and 1041 of the Civil Act;
- ac. Appointment of an appraiser pursuant to the provisions of Article 1035 (2) of the Civil Act (including the case of *mutatis mutandis* application by Articles 1040 (3), 1051 (3) and 1056 (2) of the same Act), and Article 1113 (2) of the same Act;
- ad. Appointment of an administrator of jointly inherited property pursuant to the provisions of Article 1040 (1) of the Civil Act;
- ae. Separation of inherited property pursuant to the provisions of Article 1045 of the Civil Act;
- af. Disposition as to the management of inherited property after separation of such property pursuant to the provisions of Article 1047 of the Civil Act;
- ag. Appointment of an administrator and public notice thereon, and a disposition as to the management of property, pursuant to the provisions of Article 1053 of the Civil Act;

FAMILY LITIGATION ACT

- ah. Public notice on a search for the inheritor pursuant to the provisions of Article 1057 of the Civil Act;
 - ai. Apportionment of the inherited property pursuant to the provisions of Article 1057-2 of the Civil Act;
 - aj. Probate of a will pursuant to the provisions of Article 1070 (2) of the Civil Act;
 - ak. Probate of a testamentary document or sound recording pursuant to the provisions of Article 1091 of the Civil Act;
 - al. Opening of a testamentary document pursuant to the provisions of Article 1092 of the Civil Act;
 - am. Appointment of the testament executor and the disposition as to his duties pursuant to the provisions of Article 1096 of the Civil Act;
 - an. Acceptance of a notice of acceptance or renunciation by a testament executor pursuant to the provisions of Article 1097 (2) of the Civil Act;
 - ao. Decision on the remuneration of a testament executor pursuant to the provisions of Article 1104 (1) of the Civil Act;
 - ap. Permission for a renunciation by a testament executor pursuant to the provisions of Article 1105 of the Civil Act;
 - aq. Removal of a testament executor pursuant to the provisions of Article 1106 of the Civil Act; and
 - ar. Revocation of a will subject to a charge pursuant to the provisions of Article 1111 of the Civil Act; and
- (ii) Cases of Category E:
- a. Disposition concerning the cohabitation, support, cooperation or bearing of living expenses by a man and wife pursuant to the provisions of Articles 826 and 833 of the Civil Act;
 - b. Disposition as to a change of the property administrator or a division of the common property pursuant to the provisions of Article 829 (3) of the Civil Act;
 - c. Disposition as to the fostering of children and alterations thereof, and the restriction or exclusion of the visitation right, pursuant to the provisions of Articles 837 and 837-2 of the Civil Act (including the cases where each of the above paragraphs is applied *mutatis mutandis* under the provisions

FAMILY LITIGATION ACT

of Article 843 of the Civil Act, and where it has been caused by a revocation of marriage or an affiliation thereof);

- d. Disposition as to a division of the property pursuant to the provisions of Article 839-2 (2) of the Civil Act (including the case of a *mutatis mutandis* application by the provisions of Article 843 of the same Act, and where it has been caused by a revocation of marriage);
- e. Designation and change of the person with the parental authority pursuant to the provisions of Article 909 (4) and (6) of the Civil Act (including the cases which are caused by the annulment of a marriage);
- f. Adjudication of loss of the parental authority, representative right to legal acts, and property administration right, and that of a recovery of the lost authority or right, pursuant to the provisions of Articles 924 through 926 of the Civil Act;
- g. Objection against a decision of the family council pursuant to the provisions of Article 972 of the Civil Act;
- h. Disposition as to the support pursuant to the provisions of Articles 976 through 978 of the Civil Act;
- i. Decision on the contributory portion pursuant to the provisions of Article 1008-2 (2) and (4) of the Civil Act; and
- j. Disposition as to the division of inherited property pursuant to the provisions of Article 1013 (2) of the Civil Act.

(2) The family court shall conduct the trial and render judgment on the matters coming under the jurisdiction of the family court by other Acts or the Supreme Court Regulations.

(3) Except as otherwise prescribed in Acts or the Supreme Court Regulations, the procedure for the cases under paragraph (2) shall be subject to the procedure of the family non-litigation cases of Category D.

Article 3 (Designation of Jurisdiction between District Court and Family Court)

(1) When it is not obvious which court exercises the jurisdiction over a case from among the family court and the district court, the high court being common to the relevant courts shall designate the competent court.

FAMILY LITIGATION ACT

(2) The provisions of Article 28 of the Civil Procedure Act shall apply to the designation of the competent court as referred to in paragraph (1).
<Amended by Act No. 6626, Jan. 26, 2002>

(3) Any case designated to fall under jurisdiction of the family court pursuant to paragraph (1) shall be dealt with under the procedures as prescribed by this Act, and a case designated to fall under jurisdiction of the district court, under the procedures as prescribed by the Civil Procedure Act, respectively.

Article 4 (Exclusion, Challenge and Evasion)

Of the provisions of the Civil Procedure Act concerning the exclusion, challenge and evasion of the court personnel, the matters concerning the judges shall apply *mutatis mutandis* to the chief mediator and members of the conciliation committee. and those concerning the junior administrative officer, etc., to the family fact-finding officials, respectively.

Article 5 (Fees)

For an institution of litigation, request for an adjudication, application for a conciliation, or other requests for a trial and disposition, the fees shall be paid under the conditions as determined by the Supreme Court Regulations.

Article 6 (Family Fact-Finding Officials)

(1) The family fact-finding officials shall investigate the facts under the order of the presiding judge, chief mediator, or a judge in charge of conciliation.

(2) Matters concerning the method and procedure of the fact-finding by the family fact-finding officials shall be determined by the Supreme Court Regulations.

Article 7 (Principle of Being Present in Person)

(1) Concerned parties and interested persons who are summoned at the date for pleading, examination or conciliation of the family court, conciliation committee, or judge in charge of conciliation, shall be present in person or by his legal representative: *Provided*, That when there exists any special situation, he may be present by his representative, and accompanied by an assistant, subject to the permission of the presiding judge, chief mediator, or a judge in charge of conciliation.

(2) In order that a person who is not a lawyer may become a representative or assistant, he shall obtain in advance the permission of the presiding

FAMILY LITIGATION ACT

judge, chief mediator, or a judge in charge of conciliation.

(3) The presiding judge, chief mediator or a judge in charge of conciliation may revoke at any time the permission under paragraphs (1) and (2), and order the principal to be present together with his legal representative or his representative in fact.

Article 8 (Entrustment of Fact-Finding)

The presiding judge, chief mediator, a judge in charge of conciliation or fact-finding officials may, if deemed necessary for the fact-finding, entrust the fact-finding affairs to an administrative agency, such as the police, etc., and other organizations or individuals as deemed proper, and demand their reports on the required matters.

Article 9 (Entrustment of Recording in Family Relationship Register)

When a judgement or adjudication prescribed by Supreme Court Regulations becomes final or takes effect, the family court shall promptly entrust the person in charge of registering family relationship with recording of such fact in the family relationship register as prescribed by Supreme Court Regulations.

[This Article Wholly Amended by Act No. 8435, May 17, 2007]

Article 10 (Prohibition of Report)

With respect to any case which is under proceedings in, or settled by, the family court, any facts or photographs to the level sufficient to surmise the identity from the name, age, occupation, appearance, etc. shall not be printed in any newspaper, magazine and other publications, or be broadcasted.

Article 10-2 (Perusal, etc. of Records)

(1) With permission of a presiding judge, the parties concerned or third parties who have made clear what concerns profit and loss may request a court administrative officer, junior court administrative officer, chief court clerk or senior court clerk (hereinafter "junior court administrative officer, etc.") for perusal or taking a copy of records, delivery of original copy, certified copy or extract copy of judgment document and proces-verbal or delivery of a certificate of the matters relating to litigation.

(2) Anyone who makes a request under paragraph (1) shall pay charges prescribed by Supreme Court Regulations.

(3) The purport shall be inserted in the original copy, certified copy or extract copy of judgment document and proces-verbal, and the court

FAMILY LITIGATION ACT

administrative clerk, etc. shall put his/her signature and seal thereon.

[This Article Newly Inserted by Act No. 8433, May 17, 2007]

Article 11 (Delegated Provisions)

Matters necessary for the procedure of the trial and conciliation for family cases shall be determined by the Supreme Court Regulations.

PART II FAMILY LITIGATION

CHAPTER I COMMON PROVISIONS

Article 12 (Applicable Acts)

Except as otherwise prescribed in this Act, the procedures for family litigation shall be governed by the provisions of the Civil Procedure Act: *Provided*, That the provisions of Articles 147 (2), 149, 150 (1), 284 (1), 285, 349, 350, 410 of the Civil Procedure Act, the provisions concerning the acknowledgment of claims from among those of Article 220 of the said Act, and the provisions concerning the confessions from among those of Article 288 of the said Act, shall not apply to the cases of family litigations of category A and category B. <Amended by Act No. 6626, Jan. 26, 2002>

Article 13 (Jurisdiction)

- (1) Except as otherwise prescribed in this Act, the family litigation shall be under the jurisdiction of the family court in the location of a general forum of the defendant.
- (2) In the case where the jurisdiction is to be determined by the domicile, residence or last address of the concerned party or interested person, if such domicile, residence or last address is not located in Korea, or it is impossible to know it, it shall be under the jurisdiction of the family court in the seat of the Supreme Court.
- (3) When the family court deems that the whole or part of a litigation does not fall under its jurisdiction, it shall transfer it to the competent court by its decision.
- (4) When there exists a necessity to avoid any remarkable damages or delay with respect to the case of family litigation under the jurisdiction of the family court, it may transfer it to another competent family court either *ex officio* or upon a request of the concerned party.

FAMILY LITIGATION ACT

(5) The immediate appeal may be made against a decision on transfer and a decision on rejection of a request for transfer.

Article 14 (Joining of Related Cases)

(1) When the counts of claims for the cases of several family litigations, or the cases of the family litigation and the family non-litigation, are based on the identical fact relations, if the propriety of one claim comes to be a pre-requisite for the propriety of the other claims, they may be instituted by a single litigation.

(2) When the competent courts for the cases under paragraph (1) are different, a litigation may be instituted to the family court having the jurisdiction over one claim from among the cases of the family litigations.

(3) When there exists a litigation over the case of family litigation of category A or B, if the case of the family litigation of category C or a family non-litigation, which is in the relation of paragraph (1) with the said case, is pending in a different family court, the court of a lawsuit for the case of family litigation of category A or B may join the case of family litigation of category C or that of family non-litigation by its decision, either *ex officio* or upon a request of the concerned party.

(4) Several claims joined under the provisions of paragraph (1) or (3) shall be judged by a single decision.

Article 15 (Addition and Correction of Concerned Party)

(1) An addition of indispensable co-litigants or a rectification of the defendant under the provisions of Article 68 or 260 of the Civil Procedure Act, may be made not later than the time of closing the pleadings in the fact-finding proceedings. <Amended by Act No. 6626, Jan. 26, 2002>

(2) When the defendant is rectified under the provisions of paragraph (1), the litigation shall be deemed to have been instituted against the defendant rectified at the time the initial litigation has been instituted only for the matters concerning a social status.

Article 16 (Succession to Proceedings)

(1) When the plaintiff in a case of family litigation of category A or B has come to be unable to continue the proceedings due to his death or other causes (excluding a case where he has lost a litigation capacity), another person entitled to institute a litigation may succeed to the proceedings.

(2) Any application for succession under paragraph (1) shall be filed

FAMILY LITIGATION ACT

within 6 months from the time the causes for succession have occurred.

(3) When there exists no application for succession within the period under paragraph (2), the litigation shall be deemed to have been withdrawn.

Article 17 (*Ex Officio* Investigation)

In examining the case of a family litigation of category A or B, the family court shall conduct *ex officio* a fact-finding and the required investigation of evidence, and may interrogate at any time the concerned party or his legal representative.

Article 18 (Special Case concerning Baring of Litigation Costs)

When a public prosecutor has lost a litigation as a litigant, the cost of litigation shall be borne by the national treasury.

Article 19 (Appeal)

(1) If a person is dissatisfied with a judgement of the family court, he may file an appeal within 14 days from the day an authentic copy of judgment has been served: *Provided*, That an appeal may be filed even before an authentic copy of judgment is served.

(2) The provisions concerning the proceedings of the first instance shall apply *mutatis mutandis* to the proceedings of the court of appeals.

(3) The court of appeals may reject an appeal even when such appeal is well-grounded, in case where it is deemed that any revocation or alteration of the decision of the first instance is to be contrary to the social justice and the ideology of equity, or is not pertinent for the maintenance of family peace and morals and custom.

Article 20 (Final Appeal)

If a person is dissatisfied with a judgment of the court of appeals, he may file a final appeal to the Supreme Court within 14 days from the day an authentic copy of judgment has been served: *Provided*, That a final appeal may be filed even before an authentic copy of judgment is served.

Article 21 (Special Case concerning Subjective Scope of *Res Judicata*)

(1) Final and conclusive judgement which has admitted a claim of the case of family litigation of category A or B, shall have the effect on a third person.

(2) When a judgement rejecting the claim under paragraph (1) has been made final and conclusive, other persons entitled to institute a litigation may not file a litigation again, unless there exists any justifiable reason

FAMILY LITIGATION ACT

for having been unable to participate before closing the pleadings in the fact-finding proceedings.

CHAPTER II MARRIAGE-RELATED LITIGATION

Article 22 (Jurisdiction)

Litigations over a nullity or revocation of marriage or divorce, or over a judicial divorce shall be subject to the exclusive jurisdiction of family courts falling under each of the following subparagraphs:

1. When the married couple has a general forum in the district under jurisdiction of the same family court, the said family court;
2. When a general forum of either side of the married couple exists in the district under jurisdiction of the family court wherein they had the last common domicile, the said family court;
3. In the case which does not fall under subparagraphs 1 and 2, when either side of the married couple institutes a litigation against the other party, the family court in the location of a general forum of the other party; and when the litigation is against both of the married couple, the family court in the location of a general forum of one of them;
4. In case where either side of the married couple is dead, the family court in the location of a general forum of the bereaved one; and
5. In case where both of the married couple are dead, the family court in the location of the last domicile of one of them.

Article 23 (Person Entitled to Institute Litigation over Nullity of Marriage and Divorce)

The concerned party, legal representative or relative within a cousinship may institute at any time a litigation over a nullity of marriage or divorce.

Article 24 (Other Party to Litigations over Nullity or Revocation of Marriage and Divorce)

- (1) When either side of the married couple institutes a litigation over a nullity or revocation of the marriage, or a nullity of divorce, the spouse shall be made the other party.
- (2) When a third person institutes the litigation as stipulated in paragraph (1), the married couple shall be made the other party, and when either

FAMILY LITIGATION ACT

side of the married couple is dead, the bereaved one shall be made the other party.

(3) When any person who is to be made the other party pursuant to paragraphs (1) and (2) is dead, the public prosecutor shall be made the other party.

(4) The provisions of paragraphs (1) and (3) shall apply *mutatis mutandis* to the litigation over a revocation of divorce.

Article 25 (Advice to Consult on Designation, etc. of Person Exercising Parental Authority)

(1) When a family court examines a claim for revocation of marriage or judicial divorce of a husband and wife who have a minor, it shall advise the parents to consult on the matters in the following subparagraphs beforehand in preparation for the cases where the claim is accepted:

1. Person to be designated as the one to exercise parental authority to the child who is a minor; and

2. Right to rear and to meet and communicate with the child who is a minor.

(2) Where a claim for nullity of marriage is accepted after a family court has examined it, paragraph (1) shall apply to the cases where a husband has a child who is a minor and maintains a father-child relationship with the husband.

[This Article Wholly Amended by Act No. 8715, Dec. 21, 2007]

CHAPTER III LITIGATION OVER RELATION BETWEEN PARENTS AND CHILD

SECTION 1 Relation of Legitimate Child

Article 26 (Jurisdiction)

(1) Litigations over a denial of legitimate birth, nullity or revocation of affiliation, or determination of paternity as prescribed in Article 845 of the Civil Act, shall be subject to an exclusive jurisdiction of the family court in the location of the child's general forum, and when the child is dead, the family court at his last domicile.

(2) A litigation over objection against an affiliation, that over a claim for affiliation, or that over a confirmation of existence of paternity pursuant

FAMILY LITIGATION ACT

to Article 865 of the Civil Act, shall be subject to an exclusive jurisdiction of the family court in the location of a general forum of the other party (when there exist several other parties, one of them), and when all of the other parties are dead, the family court at the last domicile of one of them.

Article 27 (Parties to Litigation over Determination of Paternity)

(1) A litigation over determining the paternity pursuant to Article 845 of the Civil Act may be instituted by the child, mother, her spouse or her ex-spouse.

(2) In case where it is instituted by the child, the mother, her spouse and her ex-spouse shall become the other party, and where it is instituted by the mother, her spouse and ex-spouse shall become the other party.

(3) In case where it is instituted by the mother's spouse, the mother and her ex-spouse shall become the other party, and where it is instituted by the ex-spouse, the mother and her spouse shall become the other party.

(4) In the case of paragraphs (2) and (3), when there exists any dead one from among the persons to become the other party, the bereaved person shall become the other party, and when there exists no survivor, the litigation may be instituted against the public prosecutor as the other party.

Article 28 (Provisions to be Applied *Mutatis Mutandis*)

Articles 23 and 24 shall apply *mutatis mutandis* to the litigation on the nullity of affiliation, Article 24 shall apply *mutatis mutandis* to the litigation on the revocation of affiliation, objection against affiliation, or confirmation on whether a relationship with a legitimate child exists, and Article 25 (1) shall apply *mutatis mutandis* to the litigation on the request for affiliation. <Amended by Act No. 8715, Dec. 21, 2007>

Article 29 (Order to Undergo Inspection of Blood Type, etc.)

(1) When a family court has failed to obtain a confident belief by any other investigation of evidences in case where there exists a necessity to confirm the existence of a relationship by blood between the concerned parties or the interested persons, it may order the concerned parties or the interested persons to undergo an inspection on the gene, such as an inspection on the blood type, etc. by extracting the blood, and an inspection by other methods deemed to be appropriate, within the scope not prejudicing the health and dignity of personality of those to be inspected.

FAMILY LITIGATION ACT

(2) In issuing the order under paragraph (1), the sanction pursuant to the provisions of Article 67 shall be notified.

SECTION 2 Relationship of Adoption and Full Adoption

Article 30 (Jurisdiction)

Litigations on the nullity of adoption, revocation of adoption, revocation of full adoption, breach of adoption, breach of full adoption or nullity or revocation of breach of adoption shall be subject to the exclusive jurisdiction of the family court at the location of the general forum of one of the foster parents, and when all the foster parents have died, to the exclusive jurisdiction of the family court at the location of the last domicile of one of the foster parents.

[This Article Wholly Amended by Act No. 8715, Dec. 21, 2007]

Article 31 (Provisions to be Applied *Mutatis Mutandis*)

Articles 23 and 24 shall apply *mutatis mutandis* to the litigations on the nullity of adoption and nullity of breach of adoption, and Article 24 shall apply *mutatis mutandis* to the litigations on the revocation of adoption or full adoption, breach of full adoption, and revocation of breach of full adoption.

[This Article Wholly Amended by Act No. 8715, Dec. 21, 2007]

CHAPTER IV LITIGATION OVER SUCCESSION TO HEAD OF FAMILY

Article 32 (Jurisdiction)

Litigations over a nullity or restoration of a succession to the head of family shall be under the exclusive jurisdiction of the family court at the location of a general forum of the person to be succeeded, and when the said person is dead, the family court at the location of his last domicile.

Article 33 (Parties to Litigation over Nullity of Succession to Head of Family)

(1) A litigation over a nullity of a succession to the head of family may be instituted by the spouse of the person to be succeeded or any kinsfolk

FAMILY LITIGATION ACT

within a third cousin.

(2) The provisions of Article 24 (3) shall apply *mutatis mutandis* to the litigation under paragraph (1).

PART III FAMILY NON-LITIGATION

CHAPTER I COMMON PROVISIONS

Article 34 (Acts to be Applied *Mutatis Mutandis*)

Except as otherwise provided by this Act, the provisions of Part I of the Non-Contentious Case Litigation Procedure Act shall apply *mutatis mutandis* to the procedure of family non-litigation: *Provided*, That the provisions of Article 15 of the Non-Contentious Case Litigation Procedure Act shall not apply *mutatis mutandis*.

Article 35 (Jurisdiction)

(1) Any family non-litigation case for which the competent court has not been determined by this Act and the Supreme Court Regulations, shall be subject to the jurisdiction of the family court at the seat of the Supreme Court.

(2) The provisions of Article 13 (2) through (5) shall apply *mutatis mutandis* to the family non-litigation cases.

Article 36 (Mode of Request)

(1) Any request for a family non-litigation case shall be made by filing a request for an adjudication with the family court.

(2) Any request for adjudication may be made orally or in writing.

(3) Any written request for adjudication shall have an entry of the following matters, and the applicant or his representative shall put his name and seal thereon: <Amended by Act No. 8435, May 17, 2007>

1. Standard place of registration, address, name and date of birth of the party concerned, and address and name of the representative if requested by a representative;

2. Gist and counts of the request;

3. Date of the request; and

4. Indication of the family court.

(4) When the request for adjudication is made orally, the requester shall make a statement in the presence of a junior court administrative officer,

FAMILY LITIGATION ACT

etc. of the family court. <Amended by Act No. 8433, May 17, 2007>

(5) In the case of paragraph (4), the junior administrative officer, etc. shall prepare a protocol specifying the matters falling under each subparagraph of paragraph (3), and affix his name and seal thereon.

Article 37 (Intervention by Interested Person)

(1) Any person interested in a request for adjudication may intervene in the procedure by obtaining permission of the presiding judge.

(2) The presiding judge may, in case where deemed to be proper, have the person interested in a request for adjudication, intervene in the procedure.

Article 38 (Examination of Evidence)

The family court may, if deemed necessary, examine the concerned party or his legal representative by the mode of party examination, and examine other interested persons by the mode of examination of a witness.

Article 39 (Mode of Judgment)

(1) The final judgment of the first instance on the family non-litigation case shall be rendered by an adjudication: *Provided*, That the same shall not apply to the case where the final judgment is to be rendered due to the procedural reasons.

(2) The written adjudication shall specify the following matters, and the judge who has made the adjudication shall affix his name and seal thereon. In case where there exists any obstruction for the judge who has made the adjudication in affixing his name and seal thereon, another judge shall enter the reasons therefor and affix his signature and seal thereon:

1. Concerned party and his legal representative;
2. Text;
3. Reason; and
4. Court.

(3) A written adjudication of the family non-litigation case of Category D shall not be required to specify the reason.

(4) The provisions concerning the decision in the Civil Procedure Act shall apply *mutatis mutandis* to the adjudication.

Article 40 (Time of Taking Effect for Adjudication)

Any adjudication shall take effect by giving notice to the person to be adjudicated: *Provided*, That the adjudication against which an immediate appeal may be raised under the provisions of Article 43, shall be effective

FAMILY LITIGATION ACT

only after it becomes final and conclusive.

Article 41 (Executive Force of Adjudication)

Any adjudication ordering a payment of money, delivery of goods, performance of registration and other obligations, shall become a title of debt.

Article 42 (Provisional Execution)

(1) For the adjudication on a claim for property or on a delivery of an infant, which is subject to an immediate appeal, an order shall be issued to the effect that a provisional execution may be effected without having any security furnished.

(2) The family court may, either *ex officio* or upon request of the concerned party, issue an order to the effect that a provisional execution may be exempted by furnishing a proper amount of money as a security for the property which is the object of performance.

(3) The provisions of paragraph (1) shall apply *mutatis mutandis* even to the case where a delivery of an infant is ordered by a judgment.

Article 43 (Dissatisfaction)

(1) An immediate appeal may be made against the adjudication only in the case as otherwise determined by the Supreme Court Regulations.

(2) The provisions concerning the judicial proceedings in the first instance shall apply *mutatis mutandis* to the judicial proceedings in the appellate court.

(3) In case where the appellate court deems that the appeal is wellgrounded, it shall revoke the original adjudication, and make a proper decision by itself: *Provided*, That when deemed that it is improper for the appellate court to make a decision by itself, it shall send the case back to the original court.

(4) With regard to the decision of the appellate court, a re-appeal may be made to the Supreme Court only in case where it is made on the ground that there exists a violation of the Constitution, Acts, Decrees or Regulations which have affected the judgment.

(5) The period of an immediate appeal shall be 14 days from the day as determined by the Supreme Court Regulations.

CHAPTER II FAMILY NON-LITIGATION CASE OF CATEGORY D

FAMILY LITIGATION ACT

Article 44 (Jurisdiction)

The family non-litigation case of category D shall be subject to a jurisdiction of the family court falling under each of the following subparagraphs:

<Amended by Act No. 8715, Dec. 21, 2007>

1. For the cases concerning incompetency and quasi-incompetency, disappearance, creation of surname and family origin, continuous use of former surname and family origin by a child and alteration of surname and family origin of a child, the family court at the domicile of the principal of such cases;
2. For the case concerning the management of an absentee's property, the family court at the last domicile of the absentee or at the seat of the property;
3. For the case concerning an alteration in the property agreement between the married couple, and the case concerning a determination of the method of exercising the parental authority to a common child, the family court as prescribed in subparagraphs 1 through 3 of Article 22;
4. For the cases concerning adoption, full adoption or breach of adoption or full adoption, the family court at the domicile of a foster child or one to be adopted;
5. For the case concerning the parental authority and guardianship (excluding the case of determining the method of an exercise of the parental authority to a common child between the married couple), the family court at the domicile of the minor child or ward;
6. For the case concerning an inheritance, the family court at the place where the inheritance commences;
7. For the case concerning a will, the family court at the place for commencing the inheritance: *Provided*, That for the case of a probate of will under the provisions of Article 1070 (2) of the Civil Act, the family court at the place where the inheritance commences or at the domicile of the testator; and
8. For the case which does not fall under subparagraphs 1 through 7, the family court as determined by the Supreme Court Regulations.

Article 45 (Method of Trial)

Adjudication on the case of the family non-litigation of category D may be rendered without examining the persons interested in the case.

FAMILY LITIGATION ACT

CHAPTER III FAMILY NON-LITIGATION
CASE OF CATEGORY E

Article 46 (Jurisdiction)

The case of a family non-litigation of category E shall be subject to the jurisdiction of the family court at the seat of a general forum of the other party: *Provided*, That the case of an objection against a decision of the family council shall be subject to the jurisdiction of the family court at the domicile of the ward.

Article 47 (*Mutatis Mutandis* Application of Provisions concerning Joint Litigation)

When there exist several applicants for the case of a family non-litigation of category E or several other parties thereto, the provisions concerning the joint litigation in the Civil Procedure Act shall apply *mutatis mutandis*.

Article 48 (Method of Examination)

An adjudication on the case of a family non-litigation of category E shall be rendered by examining the persons interested in the case, unless there exists any special reason.

PART IV FAMILY CONCILIATION

Article 49 (Acts to be Applied *Mutatis Mutandis*)

Except as otherwise provided by this Act, the provisions of the Judicial Conciliation of Civil Disputes Act shall apply *mutatis mutandis* to the family conciliation: *Provided*, That the provisions of Articles 18 and 23 of the Judicial Conciliation of Civil Disputes Act shall not apply *mutatis mutandis*.

Article 50 (Principle of Prefixing Conciliation)

(1) Any person who intends to institute a litigation or to request an adjudication to the family court for the cases of a family litigation of categories B and C and of a family non-litigation of category E, shall first make a request for a conciliation.

(2) When a litigation has been instituted or an adjudication has been requested without making a request for a conciliation on the case under paragraph (1), the family court shall refer the said case to a conciliation: *Provided*, That the same shall not apply when deemed that it is impossible

FAMILY LITIGATION ACT

to summon one side or both of the concerned parties unless resorting to a service by public notice, or that it is impossible to constitute a conciliation even if the said case is referred to a conciliation.

Article 51 (Jurisdiction)

(1) Any family conciliation case shall be subject to a jurisdiction of the family court having jurisdiction over the cases of a family litigation or a family non-litigation cases corresponding thereto, or of the family court decided upon by an agreement of the concerned parties.

(2) The provisions of Article 13 (3) through (5) shall apply *mutatis mutandis* to the family conciliation case.

Article 52 (Conciliation Organ)

(1) The family conciliation case shall be dealt with by the conciliation committee composed of one chief mediator and two or more mediators.

(2) A judge in charge of conciliation may, when there exists a proper reason, independently render a conciliation, unless the concerned parties clearly express their dissenting opinions.

Article 53 (Designation of Chief Mediator, etc. and Mediators)

(1) Chief mediator or a judge in charge of conciliation shall be designated by the president of a family court or of its branch court from among the judges of their competent court.

(2) Mediators constituting the conciliation committee shall be designated by the chief mediator for each and every case from among the persons of learning and high moral repute, who have been commissioned in advance every year by the president of a family court or of its branch court, or who have been selected by an agreement of the concerned parties.

Article 54 (Mediators)

In addition to participating in a conciliation conducted by the conciliation committee, the mediators shall state their opinion based on their expertise on other conciliation cases in compliance with an entrustment from the family court, conciliation committee or judge in charge of conciliation, or hear the opinions of persons interested in the case for a settlement of the dispute.

Article 55 (Request for Conciliation)

The provisions of Article 36 (2) through (5) shall apply *mutatis mutandis* to any request for conciliation.

Article 56 (Preliminary Fact-Finding)

FAMILY LITIGATION ACT

Chief mediator or judge in charge of a conciliation shall, before conducting a conciliation, make a family affairs investigator to conduct an investigation on the facts as to the case, with fixing a time limit, unless there exists any special circumstance.

Article 57 (Request for Joining Related Cases)

(1) Any claims for the family affairs cases of category B, C and E which have such connected relations with a claim forming the object of a conciliation as prescribed in Article 14, may be joined to file a request for conciliation.

(2) When it is required for settling all together the dispute between the concerned parties, the said parties may file a request for a conciliation by joining claims for the civil cases connected with the claims forming the object of a conciliation, by obtaining a permission of the conciliation committee or a judge in charge of conciliation.

Article 58 (Principle of Conciliation)

(1) The conciliation committee shall, in conducting its conciliation, persuade the concerned parties by taking account of the benefits of all interested persons to be affected by the conciliation in addition to the benefits of the concerned parties, and by devising a scheme capable of achieving a peaceful and final settlement of the dispute.

(2) In mediating the matters directly related with the interests of a minor child, such as the designation and change of a person who is to exercise the parental authority to the child and a decision on the method of fostering, etc., the welfare of a minor child shall be considered preferentially.

Article 59 (Effectuation of Conciliation)

(1) The conciliation shall be effectuated by entering in the protocol the matters agreed upon between the concerned parties.

(2) Any decision substituting a conciliation or a final conciliation shall have the same effect as a judicial reconciliation: *Provided*, That the same shall not apply to the matters not disposable by the concerned parties at will.

Article 60 (Transfer to Litigation due to Demurrer, etc.)

The provisions of Article 36 of the Judicial Conciliation of Civil Disputes Act shall apply *mutatis mutandis* to the claim for a civil case for which a conciliation has been requested under Article 57 (2). In this case, the family court shall transfer by its ruling the said civil case to the competent court. <Amended by Act No. 4505, Nov. 30, 1992>

FAMILY LITIGATION ACT

Article 61 (Appending of Opinions of Chief Mediator, etc.)

When fictionalizing as instituting a litigation under the provisions of Article 36 of the Judicial Conciliation of Civil Disputes Act over a claim for a family case forming the object of a conciliation, or when again referring to the family court the case which has been referred to a conciliation under the provisions of Article 50 (2), the chief mediator or a judge in charge of conciliation shall forward the record to the competent family court along with his opinion. <Amended by Act No. 4505, Nov. 30, 1992>

PART V ENSURING OF PERFORMANCE

Article 62 (Prior Disposition)

(1) When deemed specially necessary for the settlement of a case in case where there exists a litigation of a family affair case, or a request for an adjudication or that for a conciliation, the family court, conciliation committee, or judge in charge of conciliation may, either *ex officio* or upon request of the concerned party, order the other party or other interested persons the prohibition of activities to alter the current status, or to dispose of the goods, and make the dispositions deemed proper, such as a disposition for preserving the property related to the case and a disposition for making a superintendence and fostering of the related person, etc.

(2) In making the disposition under paragraph (1), the sanction as prescribed in Article 67 (1) shall be notified.

(3) In an urgent case, the presiding judge or chief mediator may independently make the disposition under paragraph (1).

(4) An immediate appeal may be made against the disposition under paragraphs (1) and (3).

(5) The disposition under paragraph (1) shall not have any executive force.

Article 63 (Provisional Attachment, and Provisional Disposition)

(1) Notwithstanding the provisions of Article 62, the family court may make a provisional attachment or a provisional disposition by making the cases of a family litigation or a family non-litigation of category E to be the case on the merits. In this case, the provisions of Articles 276 through 312 of the Civil Execution Act shall apply *mutatis mutandis*. <Amended by Act No. 6627, Jan. 26, 2002>

FAMILY LITIGATION ACT

(2) The judgment under paragraph (1) may be rendered without having any security furnished.

(3) In applying *mutatis mutandis* the provisions of Article 287 of the Civil Execution Act, it shall be deemed that a litigation on the merits has been instituted, if there exists a request for a conciliation pursuant to this Act. <Amended by Act No. 6627, Jan. 26, 2002>

Article 64 (Order for Performance)

(1) When a person who is required to perform an obligation related to property, such as payment of money, obligation to deliver an infant, or obligation to allow visitation to a child pursuant to the judgment, adjudication, conciliation protocol, or decision substituting conciliation, fails to perform the said obligation without any justifiable reason, the family court may, upon the request of the concerned party, order him to perform the said obligation within a specific period. <Amended by Act No. 7405, Mar. 24, 2005>

(2) In issuing the order under paragraph (1), the family court shall, unless there exist any special circumstances, examine in advance the concerned party, and advise him to perform the said obligations, and make a notice of the sanction as prescribed in Articles 67 (1) and 68.

Article 65 (Bailment of Money)

(1) Any person who is liable for payment of any money pursuant to a judgment, adjudication, conciliation protocol, or decision substituting conciliation, may file a request for a bailment of money with the family court for the rightful claimant.

(2) When the family court deems that a request under paragraph (1) is in conformity with the performance of the obligations, it shall permit it. No objection shall be made against such permission.

(3) In case where there exists the permission under paragraph (2), when the money has been bailed, the liability of the obligor shall be deemed to have been performed within the extent of the bailed amount.

PART VI PENAL PROVISIONS

Article 66 (Sanctions against Non-attendance)

When the person summoned by the family court, conciliation committee, or judge in charge of conciliation, fails to attend without any justifiable

FAMILY LITIGATION ACT

reason, the family court, conciliation committee, or judge in charge of conciliation may, by its or his ruling, punish him by a fine for negligence not exceeding 500 thousand won, and take him into custody.

Article 67 (Sanctions against Non-performance of Liability)

(1) When the concerned party or interested person violates the order under Article 29 or 64 or the disposition under Article 62 without any justifiable reasons, the family court, conciliation committee, or judge in charge of conciliation may, by its or his ruling, punish him by a fine for negligence not exceeding one million won either *ex officio* or upon request of the rightful claimant.

(2) When the person subjected to an order for undergoing the inspection under the provisions of Article 29, violates once again, without any justifiable reason, the said order even after being subjected to the sanctions under paragraph (1), the family court may, by its ruling, punish the offender by a detention not later than a performance of his liability, within the limit of 30 days.

(3) An immediate appeal may be made against the ruling under paragraph (2).

Article 68 (Sanctions against Special Non-performance of Liability)

(1) When the obligor subjected to an order under Article 64 falls under any of the following subparagraphs, the family court may, by its ruling, punish him by a detention not later than a performance of his liability, within the limit of 30 days, upon request of the rightful claimant:

1. When the person subjected to an order to make a periodical payment of the money fails to perform his liability over 3 or more terms without any justifiable reasons; or
2. When the person subjected to an order to deliver an infant fails to perform his liability within 30 days, even after being subjected to the sanction under Article 67 (1), without any justifiable reasons.

(2) An immediate appeal may be made against the ruling under paragraph (1).

Article 69 (Procedure for Case of Fine for Negligence)

The provisions concerning the public prosecutor from among Articles 248 and 250 of the Non-Contentious Case Litigation Procedure Act shall not be applicable to a trial on the fine for negligence as prescribed in Articles 66 and 67 (1). <Amended by Act No. 4423, Dec. 14, 1991>

FAMILY LITIGATION ACT

Article 70 (Procedure for Trial on Punishment by Detention)

The procedure for a trial on a punishment by detention as prescribed in Articles 67 (2) and 68, and other necessary matters, shall be determined by the Supreme Court Regulations.

Article 71 (Crime against Divulgence of Secret)

(1) When the person who is, or was, a mediator has divulged without any justifiable reasons, the process of consultations, opinions of the chief mediator or mediators, and the number of many or few mediators, he shall be punished by a fine not exceeding 300 thousand won.

(2) When the person who is, or was, a mediator has divulged without any justifiable reasons, another person's secret which became known to him during the performance of his duties, he shall be punished by imprisonment for not more than 2 years, or a fine not exceeding one million won.

(3) Any indictment for the crime under paragraph (2) shall require an accusation.

Article 72 (Crime against Violation of Prohibition of Reports)

Any person who has violated the provisions of Article 10 shall be punished by imprisonment without labor for not more than 2 years, or a fine not exceeding one million won.

ADDENDA

Article 1 (Enforcement Date)

This Act shall enter into force on January 1, 1991.

Article 2 (Repealed Acts)

The Personal Affairs Litigation Act and the Family Adjudication Act shall be hereby repealed.

Article 3 (Transitional Measures concerning Pending Cases)

Except as otherwise prescribed by this Act or the Supreme Court Regulations, this Act shall also apply to the cases pending in the court at the time this Act enters into force: *Provided*, That it shall not affect any validity of the procedural act before this Act enters into force.

Article 4 (Retroactive Application)

Except as otherwise prescribed by this Act, this Act shall also apply to matters arisen before this Act enters into force: *Provided*, That it shall

FAMILY LITIGATION ACT

not affect any validity effected pursuant to the previous provisions.

Article 5 (Transitional Measures concerning Jurisdiction)

(1) Matters belonging to the authority of the family court in the area wherein no family court or its branch court has been established at the time this Act enters into force, shall be subject to the jurisdiction of the competent district court or its branch court until the family court or its branch court is established.

(2) In case where there exists no jurisdiction under this Act over the case pending in the court at the time this Act enters into force, if there exists any jurisdiction pursuant to the previous provisions, it shall be subject thereto.

Article 6 (Transitional Measures concerning Legal Period)

The legal period which has progressed even prior to the enforcement of this Act, and the calculation thereof, shall be subject to the previous provisions.

Article 7 (Transitional Measures concerning Penal Provisions)

(1) The previous provisions shall govern the application of penal provisions and the fine for negligence to any act committed before this Act enters into force, and the execution thereof.

(2) The provisions of Article 68 shall not apply to any person subjected to an order for performance pursuant to the previous provisions before this Act enters into force.

Article 8 (Transitional Measures concerning Case of Succession to Head of Family)

Any litigation over a nullity or restoration of the succession to the head of the family which has commenced prior to the enforcement date of the Act amending the Civil Act (Act No. 4199), shall be subject to the examples of the litigation over a nullity or restoration of the succession to the head of the family pursuant to this Act.

Article 9 Omitted.

Article 10 (Relation with Other Acts)

In case where the Personal Affairs Litigation Act and the Family Adjudication Act or the provisions thereof have been cited in other Acts and subordinate statutes at the time when this Act enters into force, the corresponding provisions of this Act shall be deemed to have been cited.

ADDENDA <Act No. 4423, Dec. 14, 1991>

FAMILY LITIGATION ACT

Article 1 (Enforcement Date)

This Act shall enter into force on February 1, 1992.

Articles 2 through 6 Omitted.

ADDENDA <Act No. 4505, Nov. 30, 1992>

(1) (Enforcement Date) This Act shall enter into force on January 1, 1993.

(2) and (3) Omitted.

ADDENDA <Act No. 6626, Jan. 26, 2002>

Article 1 (Enforcement Date)

This Act shall enter into force on July 1, 2002.

Articles 2 through 7 Omitted.

ADDENDA <Act No. 6627, Jan. 26, 2002>

Article 1 (Enforcement Date)

This Act shall enter into force on July 1, 2002.

Articles 2 through 7 Omitted.

ADDENDUM <Act No. 7405, Mar. 24, 2005>

This Act shall enter into force on the date of its promulgation.

ADDENDA <Act No. 7427, Mar. 31, 2005>

Article 1 (Enforcement Date)

This Act shall enter into force on the date of its promulgation. (Proviso Omitted.)

Articles 2 through 7 Omitted.

ADDENDUM <Act No. 8433, May 17, 2007>

This Act shall enter into force on January 1, 2008.

ADDENDA <Act No. 8435, May 17, 2007>

Article 1 (Enforcement Date)

This Act shall enter into force on January 1, 2008. (Proviso Omitted.)

Articles 2 through 9 Omitted.

FAMILY LITIGATION ACT

ADDENDA <Act No. 8715, Dec. 21, 2007>

(1) (Enforcement Date) This Act shall enter into force on the date of its promulgation: *Provided*, That the amended provisions of Article 2 (1) (a) (ii) m and n, Article 2 (1) (b) (i) g-3, Articles 30 and 31, and subparagraphs 1 and 4 of Article 44 shall enter into force on January 1, 2008.

(2) (Applicability) This Act shall apply to the cases under proceedings at the court at the time when this Act enters into force: *Provided*, That this Act shall not have influence on the effect that has come into being according to the previous provisions.

(3) (Transitional Measures) Previous provisions shall apply to the cases that were under proceedings at the court before March 31, 2005.