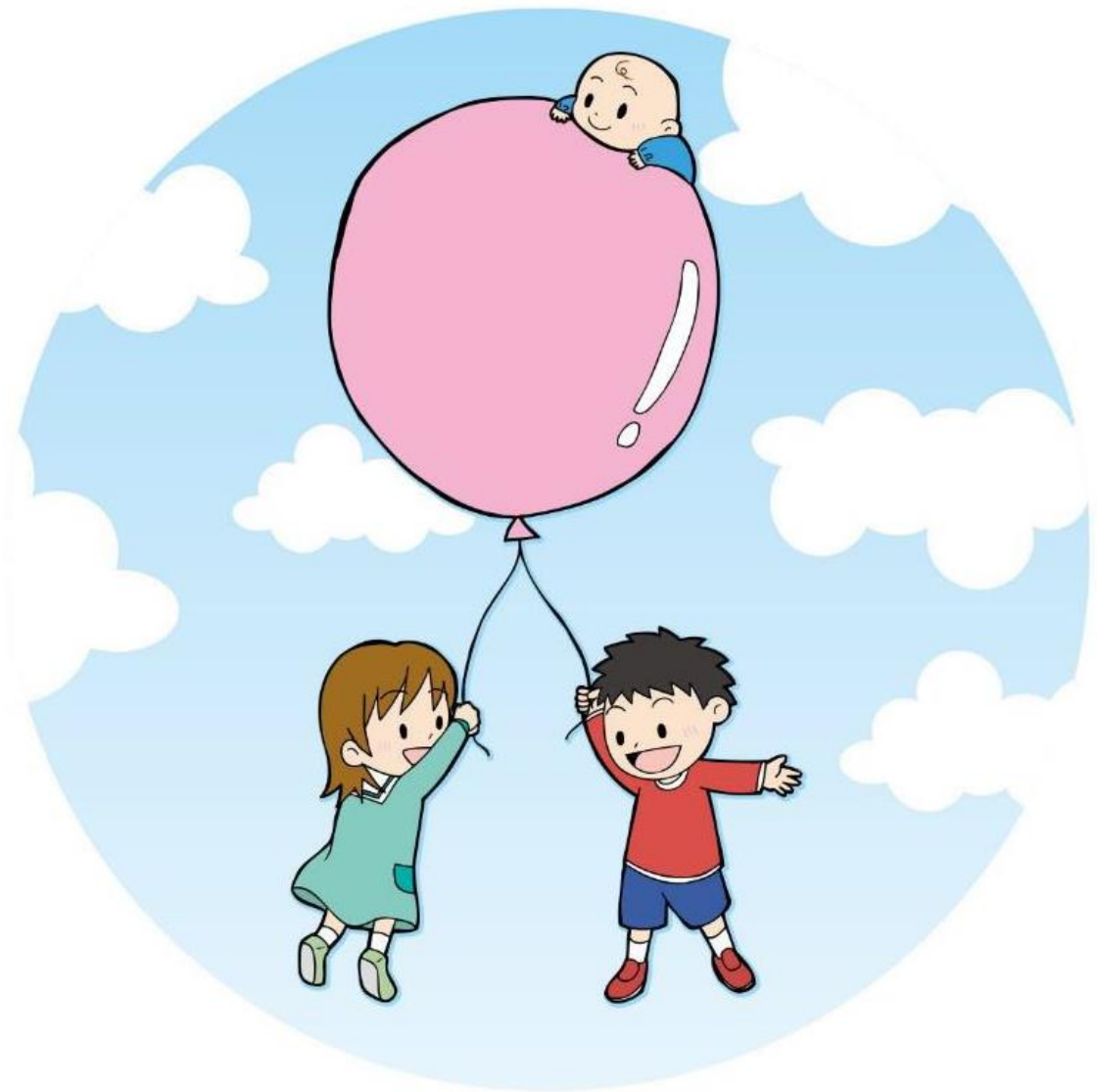


For People who Cannot Receive
Payment of Child Support Determined
by Conciliation or Adjudication

The “fulfillment assurance” and “compulsory execution” are processes you can seek when the opposite party does not pay the child support determined by conciliation or adjudication.



Introduction

The “fulfillment assurance” and “compulsory execution” are processes that you as a right holder can use when the other party (party with obligation) does not pay the child support that has been determined via conciliation, adjudication, or judicial decision or settlement of a personal status litigation.

There are two types of compulsory execution: “direct compulsion” and “indirect compulsion.”

“Fulfillment assurance,” “direct compulsion,” and “indirect compulsion” are all processes taken by the court in response to a petition from a right holder. The right holder selects which process to seek.

1. Fulfillment Assurance (Family Court Process)

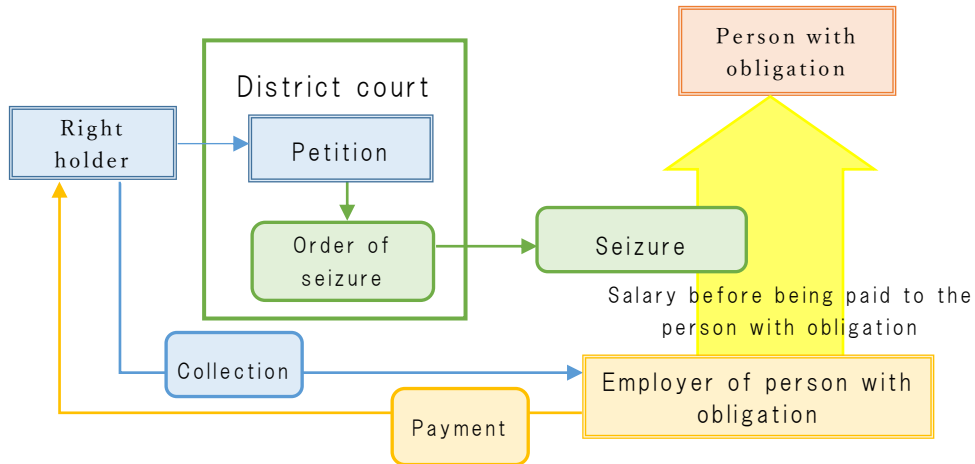
Fulfillment assurance includes a process of the family court that performed the conciliation, adjudication, or judicial decision advising the person with the obligation to fulfill the payment upon a request from the right holder.

While no costs are required for the process to advise fulfillment, payment cannot be enforced when the person with obligation does not respond to the advice.

2. Direct Compulsion (District Court Process)

Direct compulsion is a process for receiving payment from properties

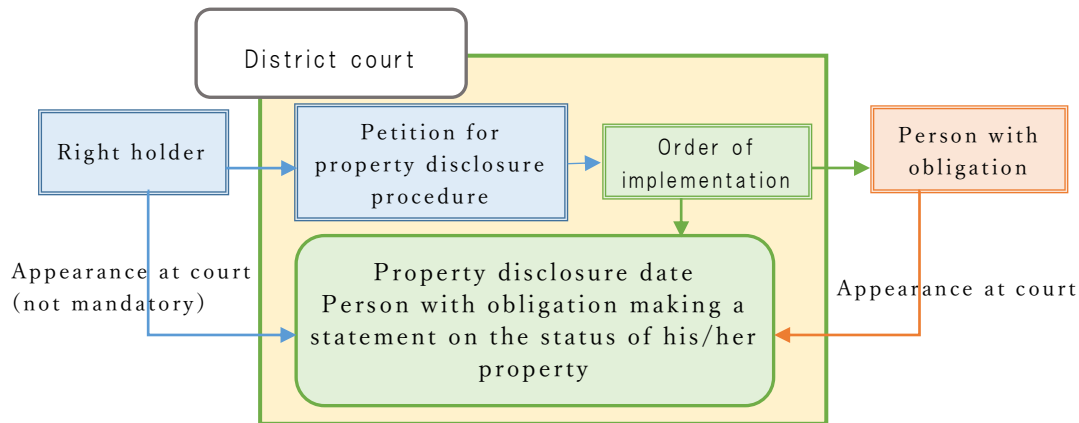
(estate, claim, etc.) seized from the person with obligation. For example, the process of seizing salary (execution against a claim) will be as shown in the figure below.



① Investigation of the property of the person with obligation
 To implement direct compulsion, the right holder needs to investigate the property of the person with obligation and decide which item of the property is to be seized. If it is unknown what property the person with obligation actually possesses, the right holder may, by satisfying certain requirements, acquire information concerning the property of the person with obligation through the property disclosure procedure by the person with obligation and the procedure for acquiring information from a third party.

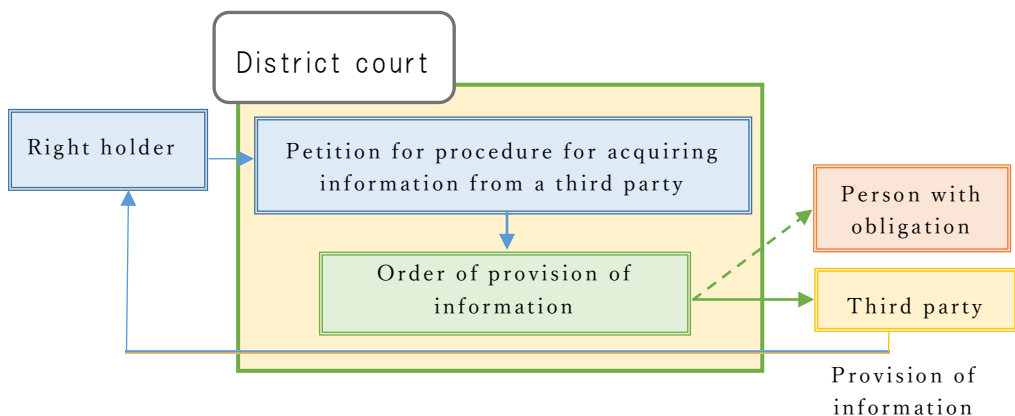
○Property disclosure procedure

The court, upon a petition of the right holder, summons the right holder and the person with obligation on the property disclosure date and has the person with obligation make a statement on the property.



○Procedure for acquiring information from a third party*

The court, upon a petition of the right holder, orders a third party, such as a financial institution or a registry, to provide information concerning the person with obligation, and sends the acquired information (e.g., the type of deposits, the account number, etc.) to the right holder. If what is claimed is a child support, etc., the right holder may seek provision of information (e.g., the employer of the person with obligation) from the municipality, the Japan Pension Service, or another relevant third party.



* Before filing a petition for the procedure for acquiring information from a third party, the right holder must undergo the

property disclosure procedure.

② Preparation of necessary documents

In order to file a petition for direct compulsion, the right holder needs to submit authenticated copies of a record of conciliation, written ruling, and/or written judgment, as well as a certificate of the fact that these documents have been served upon the person with obligation (service certificate). The right holder also needs to pay a fee for petition and purchase a postal stamp.

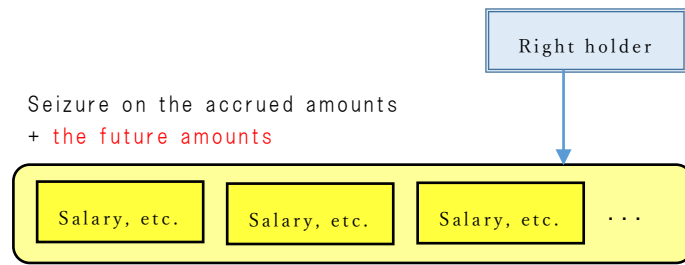
In some cases, the right holder may also need to submit a certificate of finalization of a judgment, etc. or a certificate of execution (a document certifying that compulsory execution is allowed).

The following special program is provided for
payment of child support.

① Seizure of future payment

(1) Details

Normally, a seizure can only be applied to the amount unpaid after the due date (accrued amount). However, in the case of child support, if there is any accrued amount, the amount that is to be paid to the right holder in the future for which the due date has not yet come (future amount) can also be seized.



(2) Types of applicable claims

This program can be applied to child support whose payment due date is periodic.

* In addition to a claim for child support, this program can also be used when seeking payment of monetary claims associated with an obligation of support, etc. (claims for support arising from the relationships between a husband and wife, parent and child, and other family relationships, including a claim for the share of living expenses of the other party to marriage). However, the program is not available when seeking payment of claims for distribution of property or solatium between a husband and wife, or claims based on a support agreement between individuals not in a family relationship.

(3) Properties that can be seized for future payment

These include money that is continuously paid to the person with obligation, such as salary and house rent income.

* Withdrawals of monetary deposits and savings, payment of

retirement allowance, and other one-time payment are not subjected to seizure.

(4) Money that can be received

While unpaid amounts of child support can be received collectively from the employer of the person with obligation within the scope of seizure, future amounts of child support can be received when each amount becomes due.

For example, the child support for July which will become due on July 31 (future amount) cannot be received from the salary paid on July 25, which is before the due date, but can be received from the salary for August paid on August 25, which is after the due date.



(5) How to receive the seized payment

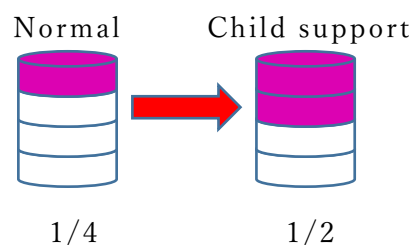
In principle, the right holder will need to make a request for payment to the employer of the person with obligation (this is called the third party obligor).

* A seizure does not mean that money is automatically transferred from the person with obligation, the third party obligor, or the court. Also, payment cannot be received beyond the scope of seizure.

* If the person with obligation has another obligation payable to a party other than the right holder, and the obligee of that other obligation has also seized the property of the person with obligation, the third-party obligor must deposit the seized amount to the Legal Affairs Bureau. In this case, the right holder cannot receive payment directly from the third-party obligor, but is supposed to receive the amount distributed at the court (distribution procedure).

② Scope of Seizure

For child support, as a special measure, an amount up to half of the salary, etc. can be seized (Normally, in principle, only an amount up to a fourth of the salary, etc. can be seized.).



3. Indirect Compulsion

An indirect compulsion urges voluntary payment to the person with obligation who has not fulfilled his/her obligation by putting psychological pressure on the person with obligation through a decision to warn him/her of the imposition of an indirect compulsory penalty aside from his/her existing obligation if the obligation remains unfulfilled after a specified time period.

The court to file a petition with depends on the document that states the payment of child support, namely, the record of conciliation, written ruling, or written judgment.

If the person with obligation does not pay child support even after the decision of indirect compulsion, you will need to seek a separate direct compulsion process in order to receive payment of child support and indirect compulsory penalty.

* This system cannot be used when the person with obligation cannot pay the child support due to lack of solvency.

Contacts

· For details about information provided in this leaflet, please contact:

- The **family court** regarding petitions for fulfillment assurance
- The **district court** regarding petitions for seizure of claims and other direct compulsion processes

· For information about petitions for indirect compulsion, please contact the court that created the document stating the payment of child support or your nearest court. The petition forms, etc. can be downloaded from the following **Court Web site**.

Court Web Site



裁判所 検索

<https://www.courts.go.jp/>

The Web site provides information about the process of recommendation for fulfillment, etc. The information on the locations and phone numbers of the courts is also published.

Japan Legal Support Center (“Hou Terrace”)

<https://www.houterasu.or.jp/>



For legal problems, call:



0570-078374

Weekdays 9:00 - 21:00

Saturdays 9:00 - 17:00

* You can call at a rate of 8.5 yen (tax excluded) for 3 minutes from anywhere in Japan from a landline phone.

* From an IP phone, dial 03-6745-5600.

* Inquiries are also accepted via e mails on the Web site.

Ministry of Justice website: Information concerning the procedures related to child support is available at:

<https://www.moj.go.jp/>

(令和3年10月最高裁判所)