

Ruling of the Loss or Suspension of Parental Rights

Q The mother and father of a child are unemployed, and not only do they not take care of the child, they are using violence on the child. What should I do?

A You can file a petition for the loss or suspension of parental rights.

In this case, you can file a petition for a ruling of the suspension of parental rights.

A suspension of parental rights is a system where, when the execution of parental rights by a mother or father is difficult or inappropriate and therefore harms the interest of the child, the family court suspends their parental rights for up to two years upon the request of an interested party (e.g. relative of the child, director of a child guidance center, or the child).

For serious cases, a petition for a ruling of the loss of parental rights can also be considered.

A loss of parental rights is a system where, when the execution of parental rights by a mother or father is significantly difficult or inappropriate and therefore significantly harms the interest of the child, the family court causes the parent(s) to lose their parental rights upon the request of an interested party (e.g. relative of the child, director of a child guidance center, or the child).

Furthermore, for cases involving child abuse, the child guidance centers provide consultation and aid. If necessary, a child guidance center requests the approval of a family court to admit the child to a child welfare institution or take measures for foster care, or to continue the temporary protective custody beyond two months.



What is Child Abuse?

There are four types of child abuse. (They are defined in Article 2 of the Act on the Prevention, etc. of Child Abuse.)

- **Physical abuse**
Assaulting the child in a manner that will cause or is likely to cause external injury on the body of the child
- **Sexual abuse**
Engaging in indecency against the child or causing the child to engage in indecency
- **Neglect**
Substantially reducing the amount of food for the child or abandon and neglect the child for a long time period in a manner that may interfere with normal development of the child mentally or physically, or leaving a person living together other than the custodian to commit abuse, or otherwise materially failing to perform the duty of custody as a custodian
- **Psychological abuse**
Using significantly violent language or take an extreme attitude of rejection against the child, using violence upon one's spouse in a family in which the child is living together, or otherwise speaking or behaving in a manner that would be significantly traumatic to the child

List of domestic relations cases involving children handled by the family court and the family courts of jurisdiction

Type of case	Court of jurisdiction	Who can file the petition
Claim for child support (Increase/Decrease of amount)	(Conciliation) Family court with jurisdiction over the place of domicile of the opposite party (Adjudication) Family court with jurisdiction over the place of domicile of the child *	Mother or father
Visitation and other contacts	(Conciliation) Family court with jurisdiction over the place of domicile of the opposite party (Adjudication) Family court with jurisdiction over the place of domicile of the child *	Mother or father
Change of custody	(Conciliation) Family court with jurisdiction over the place of domicile of the opposite party (Adjudication) Family court with jurisdiction over the place of domicile of the child *	Relative of the child
Appointment of the guardian of a minor	Family court with jurisdiction over the place of domicile of the minor ward	Minor ward, or his/her relative, or other interested party
Permission for adoption	Family court with jurisdiction over the place of domicile of the child to be adopted	Prospective adoptive parent
Special adoption	Family court with jurisdiction over the place of domicile of the prospective adoptive parent	Prospective adoptive parent
Confirmation of eligibility for special adoption (Simultaneous petition for special adoption required)	Family court with jurisdiction over the place of domicile of the prospective adoptive parent	Prospective adoptive parent
Confirmation of eligibility for special adoption based on a petition by a director of child guidance center	Family court with jurisdiction over the place of domicile of the child	Director of child guidance center
Loss of parental rights	Family court with jurisdiction over the place of domicile of the child	Relative of child, public prosecutor, child, guardian of minor, supervisor of the guardian of minor, or director of child guidance center
Suspension of parental rights	Family court with jurisdiction over the place of domicile of the child	Relative of child, public prosecutor, child, guardian of minor, supervisor of the guardian of minor, or director of child guidance center
Approval of residential care (renewal)	Family court with jurisdiction over the place of domicile of the child	Prefectural governor (Delegated to director of child guidance center)
Approval of continued temporary custody	Family court with jurisdiction over the place of domicile of the child	Director of child guidance center or prefectural governor

* A family court decided by the parties upon their agreement can also be the family court to file a petition for conciliation or adjudication with.

For more details

○ For inquiries about general legal problems:

Japan Legal Support Center ("Hou Terrace")
0570-078374 <http://www.houterasu.or.jp/>

○ For inquiries about child support: Your nearest **Single Parent Household Employment and Self-reliance Support Center** or **Child Support Consultation Assistance Center**

0120-965-419 (Call 03-3980-4108 from mobile phones)
<http://www.youikuhi-soudan.jp/>

○ For consultations on foster care and adoption: **Child guidance centers nationwide** (Nationwide common dial number) **1 8 9**

○ For consultations and reports on child abuse: **Child guidance centers nationwide** or **Department in charge in the municipality**

○ For processes, necessary documents, expenses, etc. for filing a petition:

Family courts nationwide

or the **Court Web site** <http://www.courts.go.jp/>



Child-related Processes Handled by Family Courts

The family court handles processes to legally solve various problems related to children.



Family Court

The family court seeks to solve problems through various processes on the basis of whether or not a matter is conducive to the healthy development of a child from the perspective of the child's welfare.



1 Solving problems related to childcare associated with divorce

Claim for child support

Q I became the custodian of the child after divorce, but I don't have the financial resources to support my child. I discussed child support with my ex-spouse for the child, but could not come to an agreement. What can I do?

A You can file a petition for conciliation for the payment of child support.

Child support is clearly defined in the Civil Code as one of the specific examples of "matters necessary for the custody of a child" that should be determined in consideration of the best interest of the child when the parents divorce (Article 766 Paragraph 1 of the Civil Code).

The specifics of child support are first discussed between the parents, but if no agreement is reached, a petition for conciliation regarding an agreement on the payment of child support can be filed with the family court.

Even after child support has been determined, in case of any changes in circumstances, such as decrease in income or remarriage or enrollment of child in higher education, a petition for conciliation can be filed to change (increase or decrease) the amount of child support.

Visitation and Other Contacts

Q Even if I did not get custody of my child upon divorce, can I still see my child regularly?

A You can file a petition for conciliation for visitation and other contacts.

A parent without custody seeing the child after separation or divorce is called a visitation or other contact. It is considered important for the development of the child.

The Civil Code states that visitation and other contacts is one of the specific examples of "matters necessary for the custody of a child" that should be determined in consideration of the best interest of the child when the parents divorce (Article 766 Paragraph 1 of the Civil Code).

The specifics of visitation and other contact are first discussed between the parents, but if no agreement is reached, a petition for conciliation regarding an agreement on visitation and other contacts can be filed with the family court.

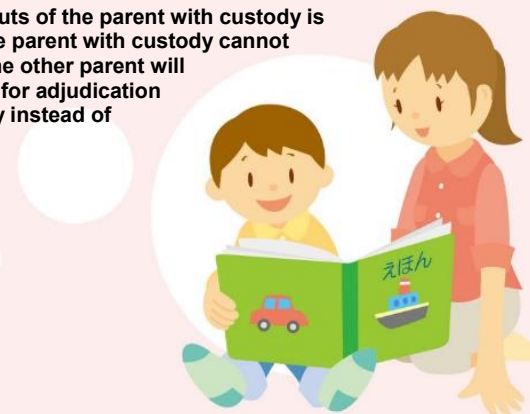
Change of Custody

Q What can I do to take back my child from my ex-spouse who currently has custody and raise my child?

A You can file a petition for conciliation for change of custody.

If there is a child between divorcing parents, the custody of the child can be determined upon agreement between the parents. However, if a need to change the custody for the interest of the child arises after divorce, a petition for conciliation regarding the change of custody must be filed with the family court.

In case the whereabouts of the parent with custody is unknown, etc. and the parent with custody cannot attend conciliation, the other parent will need to file a petition for adjudication for change of custody instead of a conciliation.



2 Solving problems in the case that the parent (with custody) cannot take care of the child or is otherwise an inappropriate custodian for the child

Appointment of the guardian of a minor

Q My sister and her husband died, leaving a child. The custody and childcare, as well as management of properties such as claim for insurance money, need to be taken care of. What should I do?

A You can file a petition for adjudication to appoint a guardian for the minor.

If there is no one with custody of the child due to the deaths of parents with custody, the family court appoints a guardian for the minor upon a petition from an interested party (relative of the child or director of child guidance center).

A guardian of a minor is the statutory agent of the minor who takes care of the child, manages his/her properties, and performs legal acts such as contracting on behalf of the child.

Permission for adoption

Q After the father of the child died, my niece, who is the mother of the child, fell ill and could no longer take care of the child, so my wife and I, who are the aunt and uncle of the mother, took in the child and are currently taking care of the child. We would like to adopt the child. What can we do?

A You can file a petition for adjudication for permission for adoption.

To adopt a child, you need the permission of a family court. The family court comprehensively judges the circumstances of the child along with his/her age and decides whether or not to permit adoption. However, an adoption of your or your spouse's lineal descendant, such as a child or grandchild, does not require the permission of a family court.

A permission from the family court is also required for a guardian of minor to adopt the minor in their care.

When adopting a child, if the prospective adoptive individual has a spouse, in principle, the couple must together be the child's adoptive parents.

Additionally, the **special adoption program*** is also available.

* Special adoption program

A special adoption program is an adoption system where the family court establishes an adoptive parent-child relationship pursuant to an actual parent-child relationship, upon dissolving the legitimate relative relationship between the child and his/her actual parent(s) when there is a particular need to do so in the interest of the child, in principle, aged below 15 years.

Therefore, a prospective adoptive individual must have a spouse, and in principle, be at least 25 years old. The adoption must be sought together as a couple. Dissolution of the adoptive relationship is, in principle, prohibited.