

GUIDE to the

2015

FAMILY COURT of JAPAN

Supreme Court of Japan

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I . JAPANESE FAMILY COURT SYSTEM

A family court specially deals with domestic disputes, such as divorce and inheritance cases, and cases involving juvenile delinquents. Family courts are independent lower courts, along with high courts, district courts, and summary courts.

A family court hears cases that differ in nature from ordinary civil and criminal cases, through procedures that suit the particularities of those cases. Since cases of domestic disputes often involve emotional conflicts between the parties, in order to thoroughly resolve such cases, the court must not only render a legal determination, but must also sufficiently deal with such emotional conflicts. Accordingly, cases of domestic disputes, excluding personal status litigation, are heard in camera, and are to be resolved, not through litigation or adjudication proceedings, but through conciliation proceedings based on logic and sentiment. Meanwhile, juveniles, whose personalities are immature compared to adults, are very likely to be reformed through education. Therefore, a disposition on a juvenile is to be determined by a family court after taking an educational approach to prevent repeated delinquency, rather than imposing a criminal punishment through litigation proceedings in an open court.

In this manner, a family court does not merely make a legal determination, but explores the causes underlying a dispute or delinquency, and gives top priority to finding a way in which the various problems within a family or between relatives can be smoothly resolved or a way to prevent a delinquent juvenile from repeating delinquency. On such basis, the court takes appropriate and reasonable measures

that suit individual cases, and resolves the cases with an eye to the future.



The Courthouse of Fukuoka Family Court



II. HISTORICAL BACKGROUND OF A FAMILY COURT

In January 1923, the Juvenile Act came into effect in Tokyo and four other prefectures, and juvenile protection offices (quasi-administrative agencies under the direct control of the Ministry of Justice) were established in Tokyo and Osaka. Later, in January 1942, the Juvenile Act came into effect nationwide, and more juvenile protection offices were established. However, in order to respond to the principles of the new Constitution and to the rapid increase in juvenile offenses after World War II, the possibility of establishing juvenile courts that are of the same level as district courts was considered in the discussions for revision of the Juvenile Act that were held since 1946.

Domestic relations cases were originally treated as civil cases, but given the particularities of domestic relations cases, courts of domestic relations were established as branches of district courts specializing in such cases, when the Domestic Relations Trial Act came into effect in 1948.

Given that the Domestic Relations Trial Act came into effect and the courts of domestic relations were established, in the subsequent legislative process for establishing juvenile courts, it was considered reasonable to also separate courts of domestic relations from district courts and consolidate them with juvenile protection offices, because maintaining domestic peace and ensuring the sound development and protection of juveniles are closely related to each other. As a result, family courts were established on January 1, 1949.

At present, family courts exist in 50 locations nationwide: in each of the 47 prefectural capitals along with Hakodate, Asahikawa, and Kushiro. There are also 203 branches and 77 local offices of family courts throughout the country.

From April 1, 2004, family courts began to also handle litigation on husband and wife relations and parent and child relations, with the coming into effect of the Personal Status Litigation Act. By becoming capable of handling litigation for domestic disputes, it became possible to achieve coordination between the procedures, while the distribution of jurisdiction became easier to understand and the system became more accessible for citizen users. At the same time, family courts became capable of using the knowledge and experience in domestic dispute resolution that they had accumulated since their establishment also in litigation proceedings, and also capable of using the later-mentioned family court probation officers.

Furthermore, the Domestic Relations Case Procedure Act came into effect on January 1, 2013, completely revising the former Domestic Relations Trial Act. In order to make the domestic relations case procedure more accessible for citizens and to have the contents of the law better match the demands of modern society, the new Act increased the provisions that contribute to procedural guarantees for the parties concerned and introduced new systems for making the procedures easier to use.

In addition, on April 1, 2014, the Act for Implementation of the Convention on the Civil

Aspects of International Child Abduction came into effect, and disputes regarding the return of the child in such cases as where a child under the age of 16 has been wrongfully removed from the state of his/her habitual residence to Japan are now subject to the jurisdiction of Tokyo Family Court and Osaka Family Court.



III. CHARACTERISTICS OF A FAMILY COURT

A. Family court probation officer system

1. Experts on domestic and juvenile delinquency problems

Changes in the social and economic situations have substantially affected the modes of families and the environment surrounding children, and the issues handled by family courts have become more and more complex and difficult in recent years. In order to appropriately deal with such cases, family courts have family court probation officers.

Family court probation officers are court officials (national government employees) who are assigned to family courts and high courts. By using their knowledge and techniques in behavioral science, such as psychology, sociology, and education, they investigate facts through interviews with the parties concerned in domestic disputes and their children or with juvenile delinquents and their custodians, and consider ways to resolve the disputes or rehabilitate the juveniles. They serve as experts on domestic and delinquency problems.

2. Training system of family court probation officers

When a person passes the employment examination conducted by the Supreme Court and is hired as an assistant family court probation officer, he/she immediately enters the Training and Research Institute for Court Officials. After the person receives training in the family court probation officer training course for about two years and completes the course,

he/she is appointed as a family court probation officer.

The training, which centers on the theories of behavioral science, law, other study fields and the practice, boasts one of the richest contents in the world.

3. Roles

a. Domestic relations cases

In a dispute over the custody of the child, such as visitation and other contacts between a parent and a child, the highest priority should be placed on a solution in the interest of the child. Therefore, a family court probation officer investigates what kind of solution would be desirable for the happiness of the child, by holding interviews with the persons concerned or the child, and making home visits, and reports the results to the judge with his/her opinion on the solution.

When there is a child who will be affected by adjudication, a family court tries to ascertain the child's intention. When making adjudication, the family court must take into consideration the child's intention according to the child's age and development status. In particular, when adjudicating a measure relating to child custody, the family court is required to hear the opinion of the child if the child's age is 15 or older, except for a disposition on child support.

In practice, a family court probation officer meets the child, using his/her expert knowledge, in most cases. In an interview with the child, consideration is given to the feelings of the child, who is in the midst of a dispute between his/her parents. Sometimes, a family court probation officer attends a scene of interaction between the parent(s) and the child in order to observe their relationship in detail.

The family court probation officer also explains the results of the investigation to the parties concerned, and encourages them to resolve the issue from the child's viewpoint.

In such cases as where a party concerned is upset and cannot hold discussions calmly, the family court probation officer mentally assists such person by using counseling techniques.

b. Juvenile cases

In order to decide an effective and appropriate disposition for aiding the rehabilitation of a juvenile who has committed a delinquent act, it is necessary to extensively investigate matters including the juvenile's character, upbringing and surrounding environment, and by clarifying the reason why the juvenile committed the act, examine how he/she can desist from delinquency. To this end, a family court probation officer interviews the juvenile and his/her custodians, and carries out investigation using various approaches including psychological tests and home visits. The results of the investigation serve as important materials when the judge makes adjudication.



Investigation of a child on a domestic relations case
1 Family court probation officer
2 Child

In the process of the investigation, the family court probation officer makes educational approaches, such as providing guidance and advice to the juvenile and his/her custodians, in order to prevent repeated delinquency. There are also cases in which, under a measure called "tentative probation," the family court probation officer holds interviews with the juvenile and his/her custodians repeatedly on an ongoing basis for a certain period of time, and while continuing to provide guidance, observes the juvenile's behavior and lifestyle before a disposition is rendered.

[Tentative probation]

"Tentative probation" is an intermediate disposition that is made when it is difficult to immediately decide on the final disposition against the juvenile. Under tentative probation, the court suspends the final disposition, and has a family court probation officer observe the juvenile's behavior and lifestyle for a certain period of time, so as to identify the juvenile's problems and to decide on a disposition that is the most appropriate for the juvenile.

The method and period of tentative probation are not specifically stipulated under law, but are specified on a case-by-case basis. In many cases, during the period of tentative probation, a family court probation officer observes the juvenile's living conditions by directly confirming the circumstances through holding interviews with the juvenile and his/her custodians on an ongoing basis and indirectly acquiring information from the juvenile's employer or school teacher, and provides the juvenile and his/her custodians with guidance that suits the circumstances at the time.

Tentative probation includes a system called "commission of correctional guidance" whereby the court puts the juvenile under the care of a private volunteer for some time and commissions the volunteer to provide correctional guidance, and observes the juvenile's living conditions. The private

volunteers who undertake correctional guidance commissions are various individuals, including managers of construction businesses, farming, and restaurants. Using the results of investigation by a family court probation officer, a family court selects an appropriate volunteer according to the problem the juvenile has or the challenge the juvenile should overcome. A family court probation officer also uses his/her expertise in the commissioning of correctional guidance, in such ways as giving advice as required to the juvenile and the volunteer.

In this manner, tentative probation is designed to further increase the accuracy of the social investigation conducted by the family court probation officer and to allow the court to decide on a disposition that is the most appropriate for the juvenile. It should be noted, however, that this is an active process of placing the juvenile in a specific place or under specific circumstances, and observing the changes in the juvenile while making various educational approaches, rather than simply observing the juvenile statically. Sometimes, this process not only allows the court to collect materials for selecting a proper treatment, but also produces effects that contribute to the juvenile's rehabilitation.

B. Conciliation system

Another characteristic of a family court is that it can carry out conciliation proceedings for some personal status cases and other domestic relations cases. Unlike arbitration and mediation, domestic relations conciliation is a strong dispute settlement means with a judicial function. For example the conciliation proceedings are carried out at a court, which is a judicial organ, either by a conciliation committee (composed of one judge and two or more domestic relations conciliation commissioners) or by one judge. In addition, the result of settlement by conciliation is given the same effect as a final and binding judgment or adjudication.

In principle, domestic relations conciliation proceedings are carried out by a conciliation committee.

Notable characteristics of the domestic relations conciliation are that it adopts the conciliation-first principle for matters subject to personal status litigation such as divorce, and that it can refer adjudication cases concerning the matters set forth in Appended Table 2 of the Domestic Relations Case Procedure Act to conciliation ex officio at any time.

The conciliation-first principle is a rule whereby matters subject to personal status litigation, such as divorce, must basically undergo domestic relations conciliation proceedings before an action is filed for them. Since it is not desirable, from the viewpoint of maintaining domestic peace and of sound cohabitation by relatives, to have matters subject to domestic relations litigation immediately brought before an open court and disputed through litigation proceedings, this principle was adopted as a measure to have the parties resolve the matter amicably and voluntarily in mutual concession.



Domestic relations conciliation proceeding
 1 Judge or domestic relations conciliation officer
 2 Domestic relations conciliation commissioners
 3 Court clerk
 4 Family court probation officer
 5 Parties



IV. STAFF OF A FAMILY COURT

A family court has such staff as judges, court clerks, and court secretaries, just like other courts, but it also has unique staff including the aforementioned family court probation officers, technical officials of courts who are doctors or nurses. Also, in order to use the knowledge and experience of the general public in processing cases, sometimes conciliation commissioners participate in domestic relations conciliation proceedings and counselors participate in domestic relations adjudication and personal status litigation proceedings, both playing an extremely important role.

A. Judges

Judges of lower courts are appointed by the Cabinet from among a list of candidates designated by the Supreme Court. Their term of office is ten years, and they can be reappointed. They retire at the age of 65.

Judges of family courts deal with domestic relations conciliation cases, domestic relations adjudication cases, personal status cases and juvenile cases, as well as affairs specially provided by law as being under the powers of family courts.

There is a system in which part-time judicial officers (called Chotei-kan) can process domestic relations conciliation cases with powers equivalent to judges. They are appointed from among lawyers who have practical experience of five years or more, and serve on a part-time basis. Their term of office is two years, and they can be reappointed.

B. Court clerks

Based on a high educational background in the field of law as a legal professional, court clerks play the role of ensuring proper court proceedings by attending the court proceedings and preparing a record of the proceedings, and preparing and keeping other records and documents. Also, they assist judges in researching laws and regulations and judicial precedents, and ensure smooth proceedings by making preparatory arrangements between the dates of court proceedings and so forth, contributing to realizing prompt and proper justice.

People who intend to become court clerks need to first work as court officers for a specific period of time, and then pass the entrance examination of the Training and Research Institute for Court Officials, and receive training for one or two years at the Institute.

C. Family court probation officers

By using knowledge and techniques of psychology, sociology, social welfare, education and law, family court probation officers engage in specialized work that bears the scientific function of family courts, such as investigation of facts and mental coordination, for the appropriate processing of domestic relations cases, personal status cases and juvenile cases.



D. Court secretaries

Court secretaries process affairs concerning judicial administration, and assist in work related to handling cases filed with the courts.

E. Technical officials of courts

Technical officials of courts who are doctors (psychiatrists, physicians) diagnose the physical and mental conditions of the parties in domestic relations cases or juveniles as necessary, and technical officials of courts who are nurses assist the doctors.

F. Domestic relations conciliation commissioners

Domestic relations conciliation commissioners are selected from among citizens of great insight and good character, who have rich knowledge and experience in social life or expert knowledge and experience useful for resolving domestic relations disputes. As members of a conciliation committee, they are responsible for achieving voluntary resolution of domestic relations cases by encouraging the parties to make mutual concession or compromise or by making coordination so that an agreement will be reached between the parties according to law based on a resolution proposed by the conciliation committee.

G. Counselors

Counselors are selected by the family court from among citizens with extensive knowledge and experience.

Counselors, along with the judge, attend the proceedings of domestic relations adjudication cases (commencement and supervision of guardianship, permission to change a first name, permission to change a surname, duty to support, division of estate, etc.) and personal status cases (divorce, etc.), in which citizens' common sense should be reflected, and state their opinions.





V. CASES HANDLED BY A FAMILY COURT

A family court is divided into the domestic relations division and the juvenile division. The domestic relations division handles domestic relations cases and personal status cases concerning issues of families and relatives. The domestic relations divisions of Tokyo Family Court and Osaka Family Court also deal with cases relating to the return of the child under the Act for Implementation of the Convention on the Civil Aspects of International Child Abduction (the Implementation Act of the Hague Convention). The juvenile divisions deal with juvenile cases addressing problems of delinquent juveniles.

A. Domestic relations cases

Domestic relations cases refer to the domestic relations cases provided for by the Domestic Relations Case Procedure Act and other laws, and they can be divided into domestic relations adjudication cases and domestic relations conciliation cases.

Domestic relations adjudication cases are further divided into cases concerning the matters set forth in Appended Table 1 of said Act (hereinafter referred to as the "Appended Table 1 cases") and those concerning the matters set forth in Appended Table 2 of said Act (hereinafter referred to as "Appended Table 2 cases"). Appended Table 1 cases include permission to change a child's surname, renunciation of inheritance, permission to change a first name, commencement of guardianship, and permission for adoption. Since these cases have a strong nature of public welfare, the family court involves itself in such cases from a guardian standpoint. Generally, these are the type of cases where the parties are not in an adversarial relationship,

and the cases cannot be resolved through an agreement between the parties. Therefore, they are solely handled through adjudication proceedings.

Appended Table 2 cases include designation of a parent to exercise parental authority and alteration thereof, division of estate, a measure relating to child custody such as a request for child support, and share of expenses arising from marriage. As these are the type of cases where the parties are in an adversarial relationship, and the cases are primarily expected to be resolved on a voluntary basis through discussions between the parties, they are handled either through adjudication proceedings or conciliation proceedings.

Cases subject to domestic relations conciliation are domestic relations case, which, besides Appended Table 2 cases, are typically divorces of married couples. As mentioned above, matters subject to personal status litigation, such as divorce, must undergo domestic relations conciliation proceedings before an action is filed for them (conciliation—first principle).

In order to facilitate the use of family court procedures, family courts provide explanations and guidance about whether the issue facing the person who has visited for consultation is suitable to be handled through the adjudication or conciliation proceedings of a family court, and if it is, what kind of petition he/she should file.



1. Proceedings of domestic relations cases

a. Petition

Domestic relations adjudication proceedings and domestic relations conciliation proceedings are both commenced upon a petition filed by a party concerned or an interested party, in principle. The court having jurisdiction over a conciliation case is the family court that has territorial jurisdiction over the domicile of the opponent or the family court agreed on by the parties. While the court having jurisdiction over an adjudication case is specified by law for each type of case, in the case of an Appended Table 2 case, the family court agreed on by the parties also has jurisdiction over the case. In

order to file a petition, the petitioner submits a written petition, containing specific matters including the issue which he/she wants the family court to resolve and other circumstances, to the reception counter of the family court. The petition forms are available at the counter of the family court, and can also be downloaded at the website of the courts (<http://www.courts.go.jp/>). (These forms are available only in Japanese.)

When filing a petition, the petitioner needs to pay a prescribed fee (800 yen or 1,200 yen per case) and purchase postal stamps to be used for sending notices to and communications with the parties and interested parties. In addition, the petitioner must attach such documents as a certified copy of the family register to the written petition, depending on the type of procedure.

b. Method of the proceedings

(1) Domestic relations adjudication cases

In a domestic relations adjudication case, a judge in charge of domestic relations cases makes a determination based on the documents submitted upon the filing of the petition, the investigation results of the family court probation officer, and the results of the hearing he/she has held. In this process, the judge may have a counselor attend the adjudication proceedings and hear the counselor's opinion for reference.

Meanwhile, the family court may refer an Appended Table 2 case to conciliation ex officio at any time.

In some cases, proceedings of either a domestic relations adjudication case or a domestic relations conciliation case can be carried out through a television conference or telephone conference, without the parties having to appear before court.

For an Appended Table 2 case, the family court must decide on the date for concluding the proceedings and the date for rendering the adjudication, while giving a reasonable grace period, unless the petition is unlawful or the petition is obviously groundless.

(2) Domestic relations conciliation cases

In a domestic relations conciliation case, a conciliation committee holds discussions while sufficiently hearing the arguments of the respective parties concerned and interested parties. Then, from a neutral standpoint, the committee makes arrangements so that an appropriate and reasonable solution that is satisfactory for everyone can be gained, while giving consideration to the interests and equity of both parties. Conciliation proceedings can also be carried out by a judge alone, without a conciliation committee. When an adjudication case or a litigation case is referred to conciliation proceedings, it is not prohibited for the judge who is in charge of the relevant adjudication or litigation proceedings to also take charge of the conciliation proceedings.



In cases where a child's parental authority or custody is disputed, the court often orders a family court probation officer to investigate the facts. When a party concerned is upset and cannot hold discussions calmly, the court sometimes orders a family court probation officer to assist in mental coordination. If necessary, the judge or domestic relations conciliation commissioners order a technical official of courts who is a doctor to diagnose a party's physical or mental conditions. If an agreement is reached as a result of such procedures, and a statement to that effect is entered in the record, conciliation is regarded to have been reached. The contents of the conciliation record have the same effect as a final and binding judgment.

If an agreement cannot be reached, conciliation fails and the proceedings terminate. If the case is an Appended Table 2 case, it may move on to adjudication proceedings (where conciliation fails and if the family court finds it to be reasonable, it may make necessary adjudication for resolving the case ex officio, while ensuring the equity between the parties and taking all circumstances into account; if the parties file no objection

within two weeks from receiving the notice of the adjudication rendered, or if a ruling to dismiss an objection becomes final and binding, the adjudication will have the same effect as the general adjudication in the case of an Appended Table 2 cases, and the same effect as a final and binding judgment in the case of any other case), and any other conciliation case will be closed. Some cases can be resolved through litigation if a party files an action (e.g., divorce or dissolution of adoptive relation).

c. Results of domestic relations cases

In the case of an adjudication case, if a party is dissatisfied with the adjudication rendered by the judge, he/she may seek proceedings at the high court by filing an appeal within two weeks, though this depends on the type of the case.

If two weeks pass without the filing of any appeal or if the appeal is not accepted by the high court, the adjudication becomes final and binding.

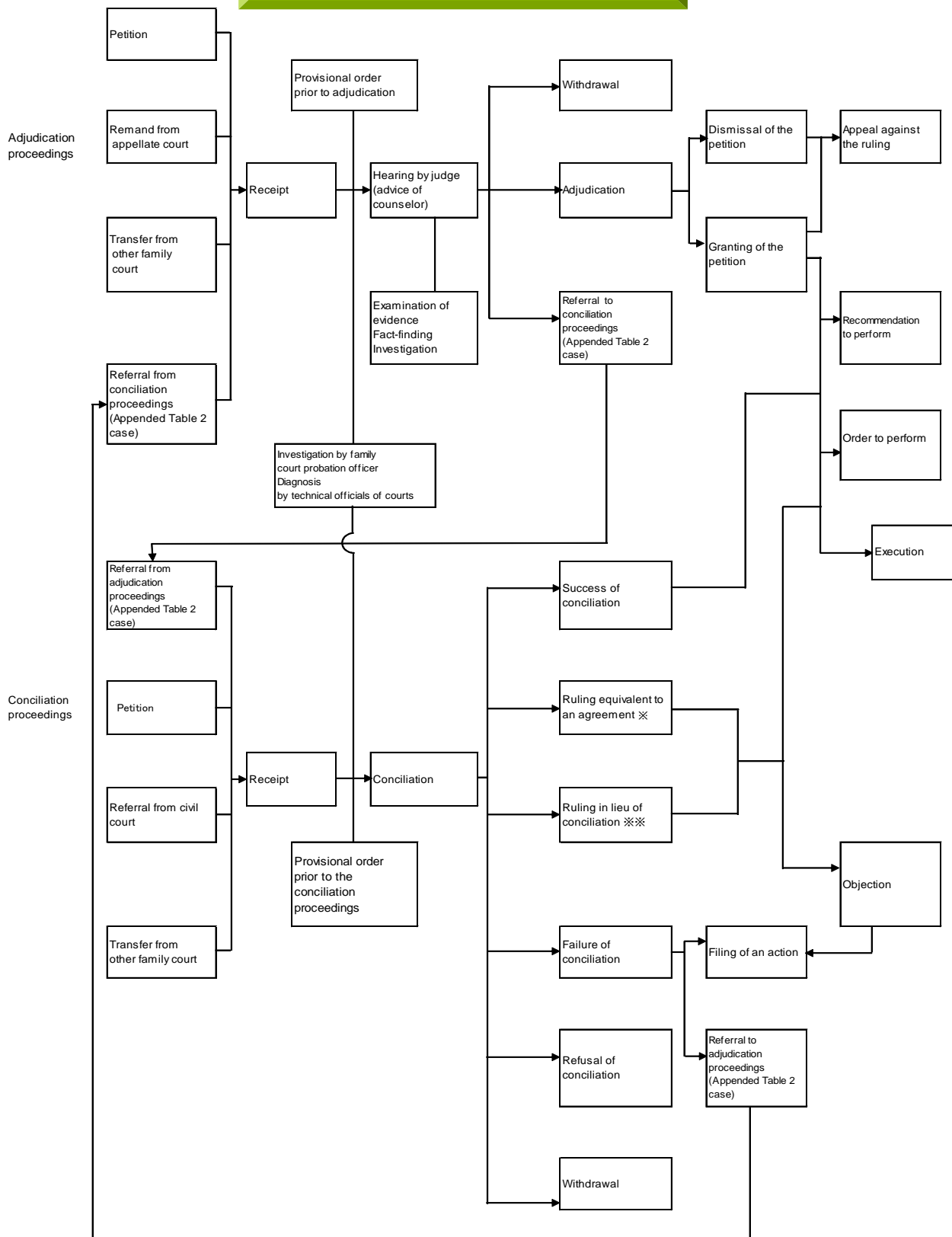
When adjudication becomes final and binding

or conciliation is reached, the relevant party may make a family register notification or receive monetary payment depending on the contents of the adjudication or conciliation. If an obligation decided by adjudication or conciliation, such as payment of money, is not performed, the person entitled to receive the payment can use a procedure in which the family court recommends or orders performance of the obligation after investigating the circumstances or a procedure of compulsory execution by filing a request therefor.



Domestic relations adjudication proceeding
1 Judge
2 Counselor
3 Court clerk
4 Attorney
5 Party

Domestic Relations Case Proceedings



* Ruling equivalent to an agreement

In proceedings for conciliation of domestic relations regarding a matter against which an action concerning personal status may be filed (excluding an action for divorce and an action for the dissolution of an adoptive relationship), if both requirements set forth in the following items are satisfied, and when the family court, having examined the necessary facts, finds the agreement set forth in item (i) to be legitimate, it may make a ruling equivalent to said agreement ("ruling equivalent to an agreement"), after hearing the opinions of the domestic relations conciliation commissioners if the proceedings are conducted by a conciliation committee (Article 277 of the Domestic Relations Case Procedure Act).

Item (i): The parties have reached an agreement whereby they will be subject to a ruling to the same effect as the object of the petition.

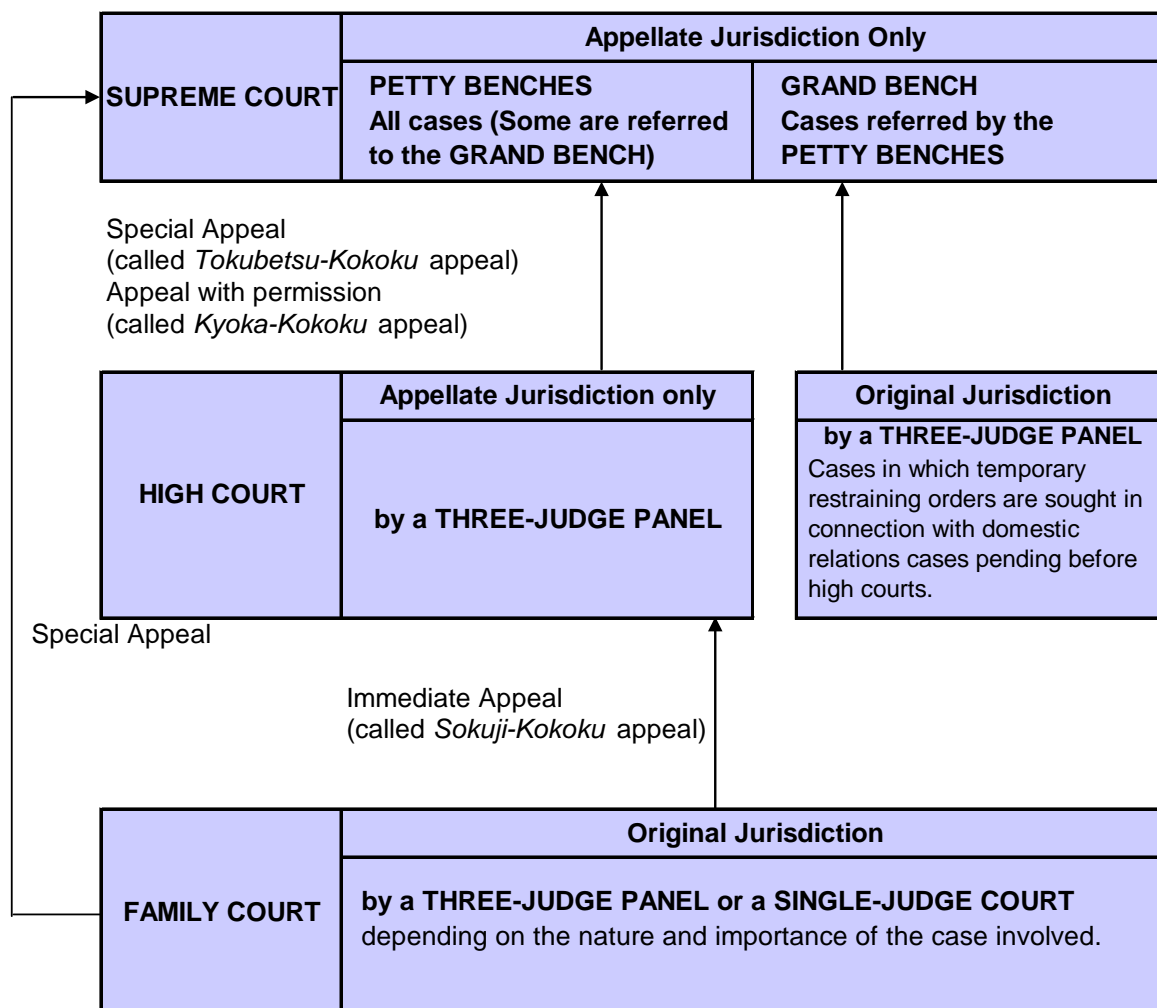
Item (ii): The parties do not dispute any cause of annulment or rescission or cause of the formation or existence of a family relationship which pertains to the petition.

** Ruling in lieu of conciliation

If conciliation is unsuccessful and the family court finds it to be appropriate, it may make a necessary ruling for the resolution of a case ("ruling in lieu of conciliation") by its own authority, giving consideration to equity in the interests of both parties and taking into account all relevant circumstances, after hearing the opinions of the domestic relations conciliation commissioners if the proceedings are conducted by a conciliation committee (Article 284 of the Domestic Relations Case Procedure Act; provided, however, that this shall not apply in proceedings for conciliation of domestic relations regarding the particulars prescribed in Article 277, paragraph (1)).



FLOW OF DOMESTIC RELATIONS ADJUDICATION CASES



Note: An immediate appeal against a ruling may be filed within two weeks from the ruling only when the Supreme Court Rules permit.

A special appeal may be filed to the Supreme Court against a ruling of the high court or the family court when the appellant claims unconstitutionality of the ruling.

An appeal with permission may be filed to the Supreme Court against a ruling of the high court when the high court gives permission in a case which involves important issues on the interpretation of laws and regulations.

2. Trend of cases (statistics)

The number of newly received domestic relations cases in 2013 was about 916,000 (about a 6.9% increase over the previous year), showing a continuous upward trend. The number has increased by about 31% during the past ten years.

Adjudication cases, which account for four-fifth of all domestic relations cases, have continued to renew the record-high number of cases since 1998. The number of conciliation cases had been slowly rising since 2007 but then has been repeating ups and downs since 2011.

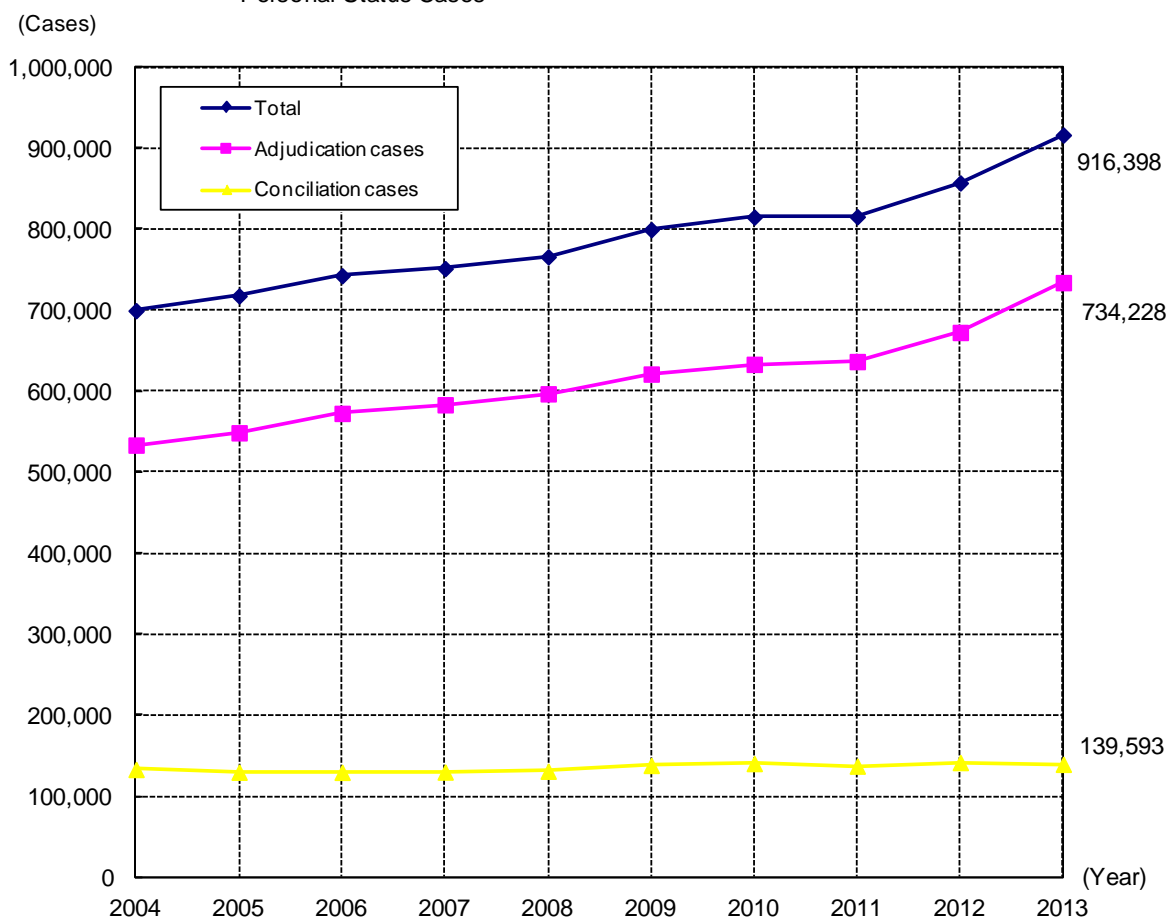
Due to the substantial changes in social and economic conditions, high-conflict, complex and difficult-to-solve cases have been increasing. Therefore, further efforts should be made to review the case management system and to enhance and strengthen conciliation proceedings.

Table 1 Annual Comparison of Numbers of Newly Received Domestic Relations Cases and Personal Status Cases

Year	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
Total	699,553	717,769	742,661	751,499	766,013	799,572	815,052	815,523	857,237	916,398
Adjudication cases	533,654	548,834	572,781	583,426	596,945	621,316	633,337	636,757	672,690	734,228
Conciliation cases	133,227	129,876	129,690	130,061	131,093	138,240	140,557	137,390	141,802	139,593
Judicial cooperation cases	234	235	185	153	128	115	105	117	92	158
Others	22,263	23,525	24,691	21,787	22,284	23,748	24,343	24,113	24,958	25,457

(Note) The total figures for year 2004 onward include the number of newly received personal status cases, ordinary litigation cases, domestic relations appeal cases, civil appeal cases to the second instance, civil retrial cases, and temporary restraining order cases.

Graph 1 Change of the Numbers of Newly Received Domestic Relations Cases and Personal Status Cases



a. Domestic relations adjudication cases

Among Appended Table 1 cases (Ko-type adjudication cases in the Domestic Relations Trial Act), which account for about 97% of all domestic relations adjudication cases, the number of cases of commencement of guardianship and others has increased notably, growing by about 2.1 times over the past ten years.

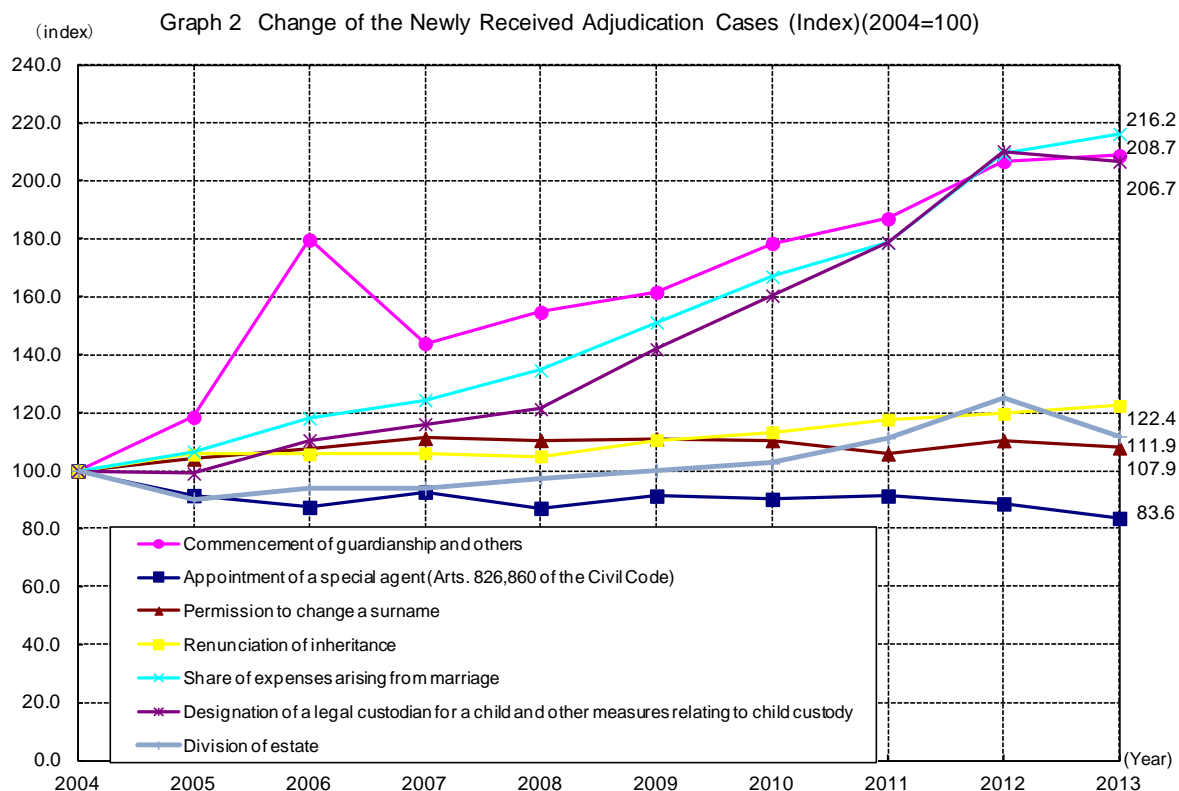
Meanwhile, Appended Table 2 cases (Otsu-type adjudication cases in the Domestic Relations Trial Act), though relatively small in number (about 20,000 in 2013), have been rapidly increasing in recent years (increasing by about 1.5 times over the past ten years). In particular, there has been a notable increase in the number of high-conflict cases, such as share of expenses arising from marriage (increasing by about 2.2 times over the past ten years) and measures relating to child custody (designation of a legal custodian, request for child support, visitation and other contacts increasing about 2.1 times over the past ten years).

Table 2 Annual Comparison of Numbers of Newly Received Adjudication Cases

	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
Grand Total	533,654	548,834	572,781	583,426	596,945	621,316	633,337	636,757	672,690	734,228
Total (Appended Table 1 cases)	520,568	536,004	559,317	569,132	581,593	603,999	614,823	617,022	650,536	714,197
Commencement of guardianship and others *1	20,388	24,154	36,626	29,341	31,538	32,943	36,381	38,118	42,146	42,545
Appointment of a special agent (Arts. 826, 860 of the Civil Code)	13,206	12,078	11,540	12,236	11,498	12,056	11,907	12,058	11,699	11,039
Permission to change a child's surname	196,563	188,995	185,806	180,797	179,506	182,799	186,206	173,196	175,604	173,624
Renunciation of inheritance	141,477	149,375	149,514	150,049	148,526	156,419	160,293	166,463	169,300	173,166
Appointment of an administrator of inherited property, etc. (cases where the heir is unknown)	10,330	10,736	11,689	11,620	12,382	12,883	14,069	15,676	16,751	17,869
Permission to change a surname	13,777	14,338	14,831	15,321	15,221	15,295	15,215	14,579	15,212	14,868
Others	124,827	136,328	149,311	169,768	182,922	191,604	190,752	196,932	219,824	281,086
Total (Appended Table 2 cases)	13,086	12,830	13,464	14,294	15,352	17,317	18,514	19,735	22,154	20,031
Share of expenses arising from marriage	1,582	1,687	1,868	1,968	2,130	2,391	2,642	2,826	3,310	3,421
Designation of a legal custodian for a child and other measures relating to child custody	4,197	4,158	4,639	4,873	5,090	5,957	6,733	7,502	8,823	8,675
Designation of a parent to exercise parental authority and alteration thereof	2,629	2,599	2,516	2,511	2,343	2,381	2,343	2,459	2,460	2,169
Division of estate	2,071	1,869	1,946	1,948	2,019	2,073	2,125	2,305	2,586	2,317
Dispositions regarding a pro rata share to be requested *2	-	-	-	507	1,244	1,837	1,944	1,877	1,945	1,984
Others	2,607	2,517	2,495	2,487	2,526	2,678	2,727	2,766	3,030	1,465

※1 Referring to cases of commencement of guardianship, commencement of curatorship, and commencement of assistance

※2 The figure of dispositions regarding a pro rata share to be requested which were rendered in 2007 covers the period from April to December of that year.



b. Domestic relations conciliation cases

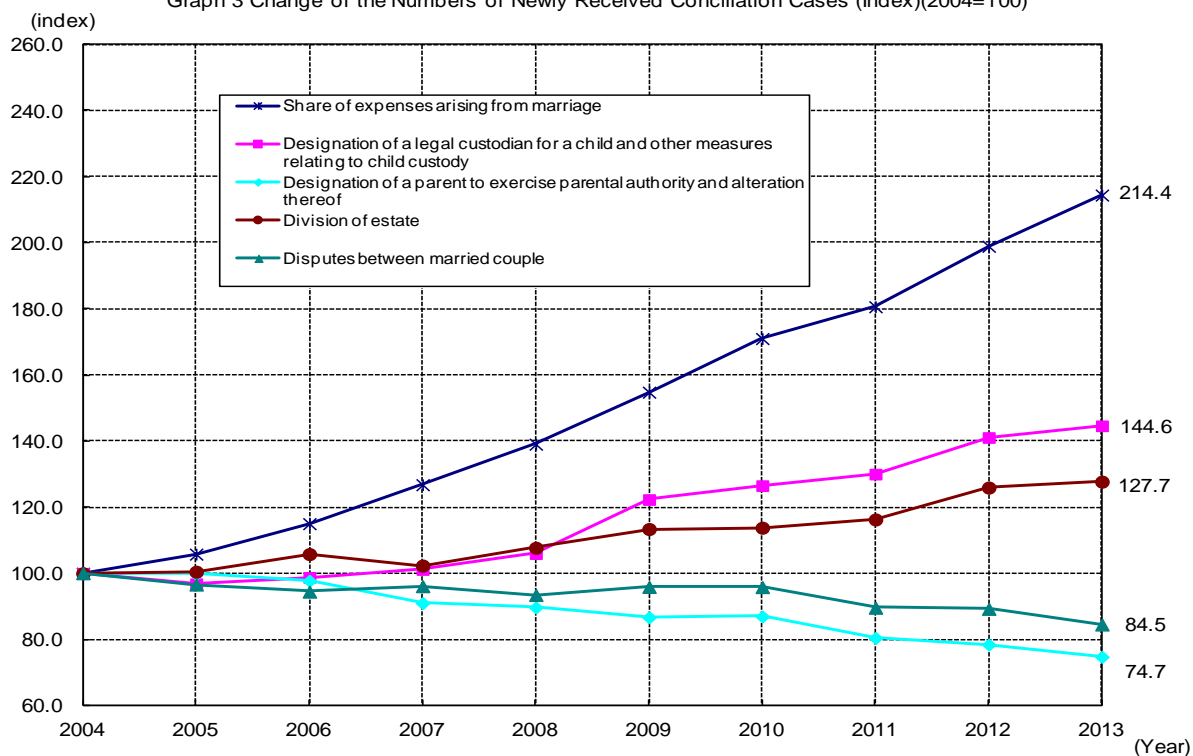
The number of domestic relations conciliation cases, which marked a record high in the previous year, slightly dropped in 2013 (about a 1.6% decrease from the previous year), but still remains high. Similar to domestic relations adjudication cases, the number of such cases as share of expenses arising from marriage (increasing by about 2.1 times over the past ten years), measures relating to child custody (increasing by about 1.4 times over the past ten years) and division of estate (increasing by about 1.3 times over the past ten years) have been substantially increasing recently.

Table 3 Annual Comparison of Numbers of Newly Received Conciliation Cases

	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
Grand Total	133,227	129,876	129,690	130,061	131,093	138,240	140,557	137,390	141,802	139,593
Total (Appended Table 1 cases)	53,745	53,438	55,099	55,609	58,647	64,448	67,034	68,166	73,204	74,870
Share of expenses arising from marriage	8,316	8,797	9,564	10,544	11,564	12,872	14,222	15,022	16,544	17,832
Designation of a legal custodian for a child and other measures relating to child custody	22,273	21,570	21,997	22,524	23,596	27,241	28,180	28,955	31,421	32,208
Distribution of Property	1,312	1,177	1,260	1,204	1,311	1,393	1,500	1,493	1,558	1,605
Designation of a parent to exercise parental authority and alteration thereof	9,779	9,755	9,557	8,896	8,767	8,476	8,501	7,864	7,669	7,306
Division of estate	10,083	10,130	10,668	10,317	10,860	11,432	11,472	11,724	12,697	12,878
Dispositions regarding a pro rata share to be requested *	—	—	—	336	770	1,126	1,238	1,275	1,412	1,311
Others	1,982	2,009	2,053	1,788	1,779	1,908	1,921	1,833	1,903	1,730
Total (Other than above)	79,482	76,438	74,591	74,452	72,446	73,792	73,523	69,224	68,598	64,723
Disputes between married couple	59,868	57,818	56,537	57,522	55,935	57,389	57,362	53,625	53,427	50,582
Matters for rulings equivalent to agreements	5,285	4,914	5,030	4,501	4,335	4,417	4,353	4,259	4,270	4,146
Others	14,329	13,706	13,024	12,429	12,176	11,986	11,808	11,340	10,901	9,995

* The figure of dispositions regarding a pro rata share to be requested which were rendered in 2007 covers the period from April to December of that year.

Graph 3 Change of the Numbers of Newly Received Conciliation Cases (Index)(2004=100)



B. Personal status cases

Personal status litigation refers to litigation for divorce of married couples, dissolution of the adoptive relation between adoptive parents and an adopted child, filiation of a child, declaration of the existence of a parent-child relationship, and formation or declaration of the existence of family relationships.

Most personal status cases are actions seeking divorce. In divorce cases, matters subject to domestic relations cases, such as distribution of property and child support, may be examined simultaneously, upon petition. Also, the family court having jurisdiction over a divorce case may examine any claim for solatium in relation to the facts which constitute the cause of the divorce, in a consolidated manner.

In domestic relations conciliation proceedings, a dispute is resolved by a voluntary agreement between the parties through arrangements by a conciliation committee, but in personal status

litigation, a dispute is resolved by a judgment, etc. rendered by a judge after both parties state their arguments and produce evidence that supports their arguments. While domestic relations conciliation proceedings are carried out in camera, personal status litigation is carried out in open court, except where open examination proceedings are suspended by an order of the court due to special circumstances such as where the subject matter being examined is related to a material secret regarding the private life of a party.

There are no express provisions concerning Japan's international jurisdiction in transnational cases, but it is considered to be reasonable to decide on the jurisdiction based on reasonableness with the principle of ensuring equity between the parties as well as proper and prompt justice.

Pursuant to Article 27 of the Act on General Rules for Application of Laws, the governing law

for a divorce case will primarily be the law of the common nationality of the husband and wife, but if their nationalities differ, it will be the law of their common habitual residence, but if their habitual residences differ, it will be the law of the place most closely connected with them. However, if one of them is a Japanese national who has habitual residence in Japan, their divorce will be governed by Japanese law. As for designation of a parent to exercise parental authority over a minor, the governing law will be the child's national law if it is the same as the national law of either the mother or father, and in other cases, it will be the law of the child's habitual residence (where the child has dual nationality, the national law will be Japanese law if the child has Japanese nationality), pursuant to Article 32 of said Act. The governing law for child support will be the law of the child's habitual residence.

1. Personal status litigation proceedings

a. From filing of an action to submission of a written answer

Litigation is commenced upon submission of a complaint to the family court. In litigation, the person who files the action is called the plaintiff, and the person whom the action has been filed against is called the defendant.

(1) Filing of an action

In principle, an action is filed with the family court having jurisdiction over the place of domicile of a party (in the case of divorce, the husband or wife). However, if such family court differs from the family court that handled

domestic relations conciliation for the case before the filing of the personal status litigation, and if the family court finds it to be particularly necessary, the family court that handled domestic relations conciliation may also handle the personal status litigation, upon petition or ex officio.

In order to file an action, the plaintiff needs to submit a complaint, together with a fee (revenue stamp), postal stamps, a certified copy of the family register, and other necessary materials. The complaint must concretely state the object (the matter sought as the conclusion of the judgment) and statement of the claim, as well as material relevant facts and evidence.

(2) Submission of a written answer

The court may decide on the period within which the defendant shall submit a written answer. In the written answer, the defendant shall clarify whether he/she admits or denies the contents of the complaint, and if he/she denies the contents, he/she needs to state the reason for the denial and submit evidence. Except in the case of an action for divorce, the defendant cannot acknowledge a claim. Since constructive admission is not applied to personal status cases, the court needs to find facts based on evidence if the defendant does not submit a written answer.

The family court has available a standard complaint form and written answer form for divorce cases, and their explanatory documents. The forms can also be downloaded at the website of the courts (<http://www.courts.go.jp/>). (These forms are available only in Japanese.)



Judicial proceeding in
Litigation of personal status
In the court room
1 Judge
2 Counselor
3 Court clerk
4 Party and Attorney
5 Court Secretary

b. Major proceedings at the family court

Major proceedings are oral argument, preparatory proceedings to arrange issues and evidence, and examination of evidence.

Oral argument is proceedings where the parties state their arguments based on documents they have submitted in advance, and produce evidence that supports their arguments. Arrangement of issues and evidence is carried out to confirm the issues and to sort out the evidence that has been produced with regard to those issues. In examination of evidence, the court questions the parties, or others, about the circumstances in the courtroom (examination of parties, or others.) in order to make determination on the issues.

In these proceedings, if the family court finds it to be necessary, it may have one or more counselors attend the proceedings and hear their opinions. The purpose for this is to reflect citizens' common sense in the proceedings of personal status litigation. When designating a legal custodian for a child or taking other measures relating to child custody, or designating a parent to exercise parental authority in a judgment upholding a divorce, the family court may investigate facts or order a family court probation officer to investigate facts. It is provided under law that a family court

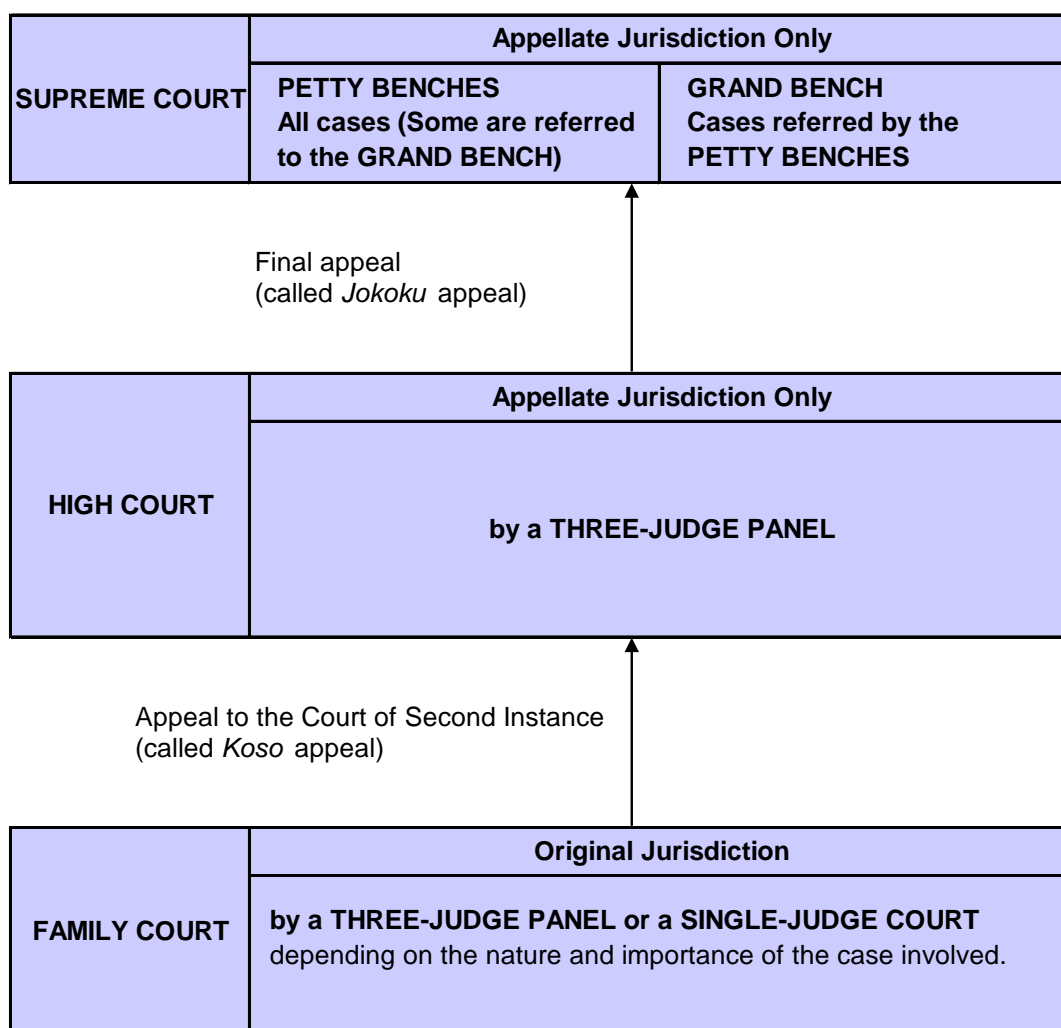
probation officer may report the results of the investigation of facts to the court in writing or orally, but in practice, such report is mostly made in writing.

c. Judgment/settlement

The family court renders a judgment based on the proceedings of oral argument, examination of evidence and so forth. If a party is dissatisfied with the contents of the judgment, he/she may seek proceedings at the high court by filing an appeal within two weeks from the date on which the party received service of the judgment. In litigation pertaining to an action for divorce, if the parties can reach an agreement, the case can be resolved by settlement. In order to reach a settlement, the parties themselves must appear before court.

If, after a judgment becomes final and binding or a settlement is reached, the decided obligation, such as payment of money for distribution of property or child support, is not performed, the person entitled to receive the payment can utilize a procedure in which the family court recommends or orders performance of the obligation after investigating the circumstances, similar to the case of domestic relations cases (adjudication and conciliation). The fact that a procedure of compulsory execution can be used is also similar to the case of domestic relations cases.

FLOW OF PERSONAL STATUS CASES



Note: An appeal to the court of second instance may be filed against the final judgment of the family court, which is the court of first instance, when the appellant claims the fact-finding or legal determination by the family court to be unreasonable.
A final appeal may be filed against the final judgment of the high court, which is the court of second instance, when the appellant claims the judgment to be unconstitutional or otherwise in violation of law.

2. Trend of cases (statistics)

The number of newly received personal status cases in 2013 decreased by about 7.1% over the previous year, and the number of pending cases decreased by about 2.9% over the previous year.

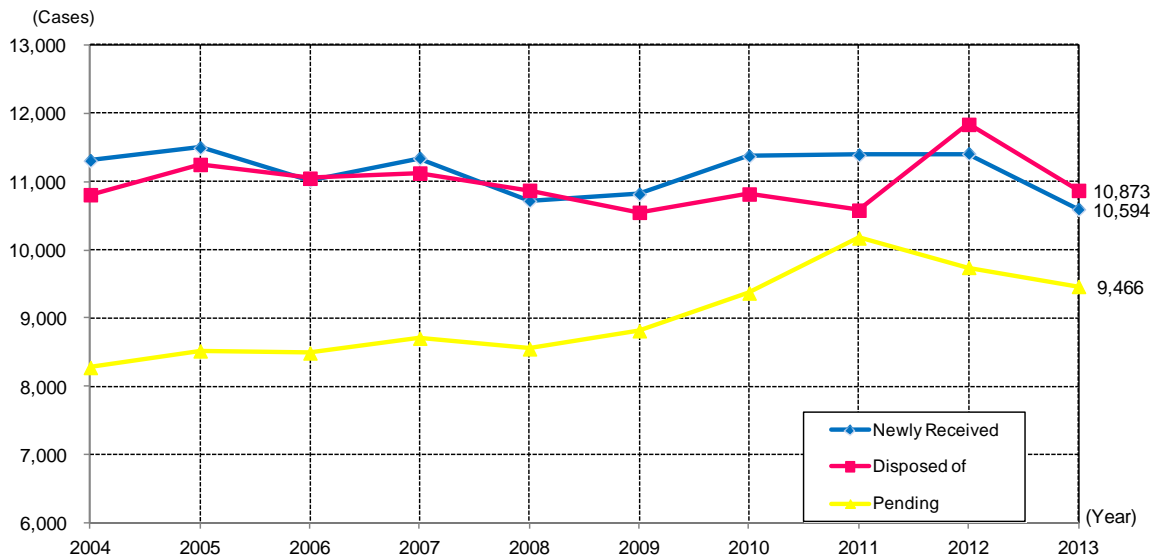
Over the past ten years, the number of newly received cases decreased by about 6%, whereas the number of pending cases increased by about 37%.

Table 4 Annual Comparison of Numbers of Personal Status Cases

Year	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
Newly Received	11,307	11,496	11,021	11,343	10,718	10,817	11,373	11,389	11,409	10,594
Disposed of	10,810	11,253	11,051	11,127	10,874	10,552	10,820	10,583	11,840	10,873
Pending	8,279	8,522	8,492	8,708	8,552	8,817	9,370	10,176	9,745	9,466

(Note) Figures for years 2004 through 2010 are those for cases that were pending before district courts and family courts.

Graph 4 Change of the Numbers of Personal Status Cases



C. Cases relating to the return of the child under the Act for Implementation of the Convention on the Civil Aspects of International Child Abduction

1. Cases seeking the return of the child

Upon Japan's acceptance of the Convention on the Civil Aspects of International Child Abduction (Hague Convention), it is now possible to seek the return of the child to the state of his/her habitual residence in such situation as where a child under the age of 16 has been wrongfully removed from that state to Japan. Cases seeking such return of the child are under the jurisdiction of Tokyo Family Court and Osaka Family Court.

2. Procedures for the case seeking the return of the child

a. Petition, etc.

A case seeking the return of the child commences upon a petition by a party, which is to be filed with Tokyo Family Court or Osaka Family Court (depending on the child's domicile).

In order to file a petition, the petitioner shall prepare a written petition containing statements of specific matters including the object of the petition, the facts constituting the statutory elements for the return of the child, and evidence that proves such facts, and submit it to the family court. Upon filing, the petitioner needs to pay 1,200 yen as a fee per case and purchase postal stamps to be used for sending notices to and communications with the parties and relevant persons.

In order to ensure the return of the child, a party may file a petition for an order for the other party not to have the child depart from Japan (ne exeat order).

The family court decides on the period within which the respondent shall submit a written answer. In the written answer, the respondent shall clarify whether he/she admits or denies the contents of the written petition and state the facts constituting the statutory grounds for refusing the return, as well as evidence for these matters.

b. Proceedings

In the case seeking the return of the child, the judge in charge of the case expeditiously determines whether or not the child should be returned to the state of his/her habitual residence, based on the documents submitted by the parties, the results of the examination conducted by the family court probation officer, and the results of the hearing conducted by the judge him/herself, etc.

Except where the petition is unlawful or it is obvious that the petition is groundless, the family court shall decide the day on which proceedings are to be concluded, giving a reasonable grace period, and also set the date to make a decision.

c. Final order, settlement, conciliation

A party who disagrees with the final order by the family court may request the case to be examined by the high court by filing an appeal within two weeks.

The final order becomes final and binding in cases such as when the period of two weeks has passed with no appeal being filed or the

appeal is dismissed by the high court. The court which made the final order to order the return of the child may modify that order upon petition when it finds that it is no longer appropriate to maintain the order due to a change in the circumstances after the order became final and binding.

A case seeking the return of the child can be resolved by settlement or conciliation when the parties reach an agreement.

If the final order to order the return of the child became final and binding or the parties reached an agreement on settlement or conciliation but the child is not returned to the state of his/her habitual residence, the party seeking the return of the child may resort to the procedure through which the family court examines the status of the performance of the obligations and recommends the obligor to perform such obligations, or the procedure of compulsory execution.

D. Juvenile cases

Juvenile cases are cases concerning juvenile delinquents, who have committed or are likely to commit a crime. They are handled differently from cases of crimes committed by adults, and are referred to as "juvenile protection cases."

In juvenile case proceedings of Japan, " Juvenile" means a person aged under 20.

1. Juvenile case proceedings

a. Acceptance of cases

The family court handles cases concerning the following juveniles as juvenile cases:

- (i) Juveniles aged 14 to 19 who have committed a crime (juvenile offenders)
- (ii) Juveniles who have violated laws and

regulations of criminal nature, but are deemed not to have committed a crime under law since they were aged under 14 when they committed the act (juvenile offenders under 14)

(iii) Juveniles aged under 20 who, without a justifiable cause, do not follow the instructions of their custodian(s), stay away from home, frequent places of ill repute, and who, in light of their personality or environment, are likely to commit a crime or violate laws and regulations of criminal nature in the future (pre-delinquents).

Methods for a family court to accept a juvenile case include referral from a judicial police officer, public prosecutor, prefectural governor or child consultation center's director, notification by the general public or a chief probation officer, and report by a family court probation officer.

b. Investigation procedure

When the family court accepts a juvenile case, the judge orders a family court probation officer to carry out an investigation.

The family court probation officer investigates the juvenile's personality traits, daily behavior, growth history and environment, while using his/her expert knowledge in behavioral science, such as psychology, sociology and education.

The family court probation officer carries out the investigation by summoning the juvenile, his/her custodian(s), and other interested parties to the family court and interviewing them, conducting psychological tests, and sometimes visiting the juvenile's home or school and confirming the circumstances. There are also cases where the juvenile is encouraged to reflect on his/her conduct by having the juvenile

participate in community service activities, such as nursing care at nursing homes for the elderly or community cleanup, or take a class where he/she can directly hear the thoughts of victims of other cases. Sometimes, the family court probation officer interviews the victims in order to understand the actual conditions of the damage in detail.

When carrying out the investigation, consideration is given to the juvenile's emotional stability and sufficient attention is paid to maintaining the confidentiality of the interested persons.

When the family court considers it to be desirable to investigate the physical and mental conditions of the juvenile in more detail so as to appropriately decide on the measure for the juvenile, it may commit the juvenile to a juvenile classification home that has scientific inspection and assessment facilities.

The period for which the juvenile can be committed to a juvenile classification home is usually four weeks at maximum, but this can be extended to eight weeks at maximum for cases that require examination of evidence (excluding minor cases).

The family court probation officer summarizes the results of the investigation and prepares a report, and submits it to the judge together with other related documents such as results of inquiries made to related organizations.

c. Hearing proceedings

The judge determines whether or not it is appropriate to open a hearing for a juvenile based on the results of the investigation, and gives a ruling for commencement of hearing and summons the juvenile and the parents thereof where the judge finds a hearing to be necessary.

If the court determines that the educational approach made at the time of the investigation is sufficient and there is no need to give guidance by opening a hearing because there is no dispute over the facts, the case is minor, and the juvenile is very unlikely to repeat delinquency, the court may make a ruling of non-commencement of hearing and terminate the procedure.

People who attend a hearing are the summoned juvenile and his/her custodian(s), and sometimes the juvenile's attendant (a lawyer in many cases), school teacher, employer, and



Juvenile case hearing

- 1 Judge
- 2 Court clerk
- 3 Family court probation officer
- 4 Juvenile
- 5 Custodians
- 6 Attendant (mostly a private attorney)
- 7 Court secretary

volunteer probation officer in charge. In certain serious cases where the existence or non-existence of the facts of the delinquency is disputed, the family court may, at its discretion, have a public prosecutor attend the hearing. However, as it is not an open procedure like criminal proceedings, the general public is not permitted to observe the hearing.

A hearing is conducted cordially and amicably, but at the same time with some sternness so as to encourage introspection on the part of the juvenile delinquent about his/her own delinquency.

In the investigation and hearing, guidance is given to the juvenile for encouraging reflection and preventing repeated delinquency, and sometimes advice or guidance necessary for the rehabilitation of the juvenile is also given to his/her custodian(s), such as encouraging the custodian(s) to be conscious of his/her responsibility for the upbringing of the juvenile.



d. Ruling of a measure

The judge renders a ruling to impose a measure for the juvenile based on the results of the investigation and hearing. The protective

measures include probation where a probation officer or volunteer probation officer provides guidance and supervision or provides correctional guidance and assistance to the juvenile, and referral to a juvenile training school or a children's self-reliance support facility where the juvenile is committed to a specific facility for some time and is given guidance so as to be able to acquire sound thinking and an orderly lifestyle.

When there is no need for a protective measure, the judge may dismiss the case after the hearing, after he/she gives guidance such as admonition so that the juvenile will reflect on and never repeat the delinquency.

Also, if the judge finds it appropriate to punish a juvenile, who is aged 14 or over and who has committed a specific crime, through criminal proceedings in light of the history of delinquency, physical and mental maturity, personality traits and contents of the case, the judge may refer

the case to a public prosecutor. Furthermore, when a juvenile aged 16 commits a serious crime such as homicide, the judge must refer the case to a public prosecutor, in principle. In these cases, the public prosecutor must prosecute the juvenile with a district court or summary court, except in certain exceptional cases.

Other than such final measures, a measure called tentative probation may be taken as an intermediate measure. In this case, a final measure as explained above will be taken after observing the results of the tentative probation.

Among the final measures, the juvenile or the legal representative or attendant of the juvenile may lodge an appeal against a ruling imposing a protective measure within two weeks for a reason of substantial inappropriateness of the measure, etc, and seek proceedings at the high court.

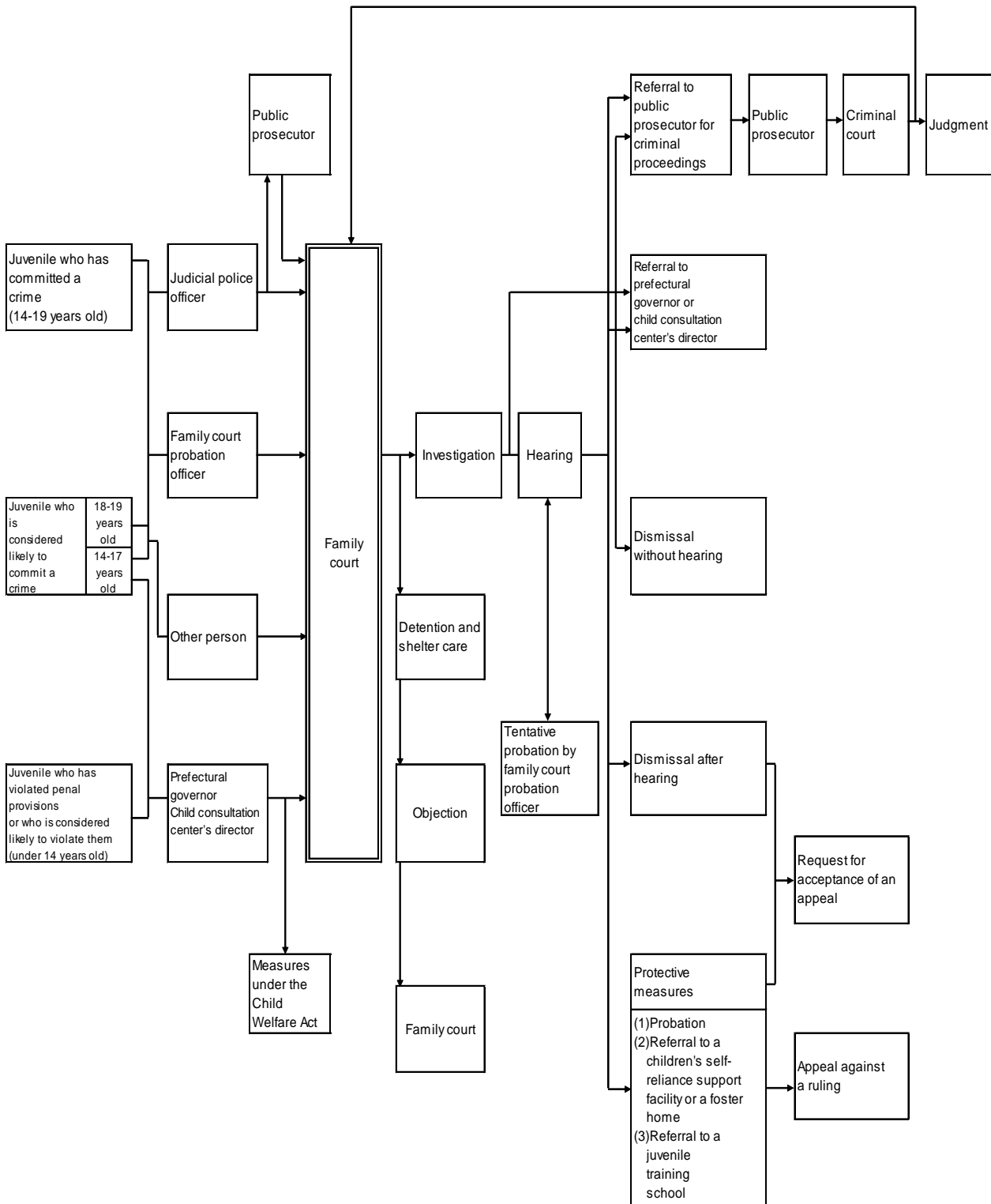
e. Systems for victims

In juvenile cases handled by the family court, it is essential to give consideration to the victims. In order to enhance the consideration for the victims, systems such as inspection and copying of the case record, hearing of opinions, notification of the hearing results and explanation of the situation of the hearing have been introduced in the hearings of juveniles. Also, victims of certain serious cases are sometimes allowed to observe the hearing.

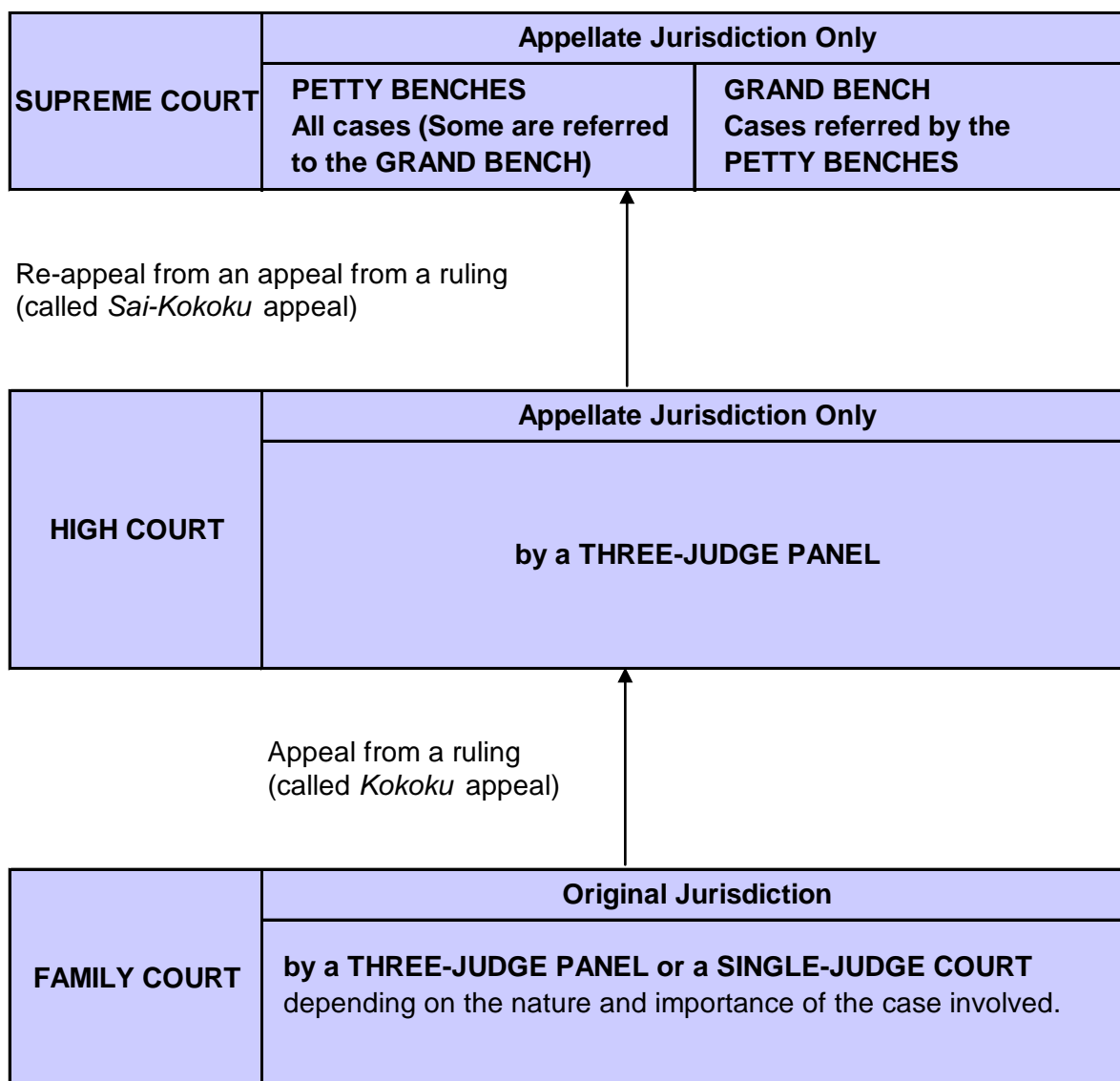
In order to use any of these systems, the victim needs to make a request to use it. The request form is available at the counter of the family court.

Meanwhile, in order to reflect the voices of victims in the investigation and hearing, there are cases where victims are asked to explain the actual circumstances and their feelings in writing or in an interview with a family court probation officer.

Juvenile Case Proceedings



FLOW OF JUVENILE CASES



Note: A re-appeal may be filed to the Supreme Court within two weeks from an appeal from the ruling of the high court, but only on the ground that the ruling is in violation of the provisions of the Constitution, that the ruling is erroneous in its interpretation of the Constitution, or that the ruling contains a judgment that is inconsistent with the judicial precedents rendered by the Supreme Court or by high courts in the appellate instance.

2. Trend of cases (statistics)

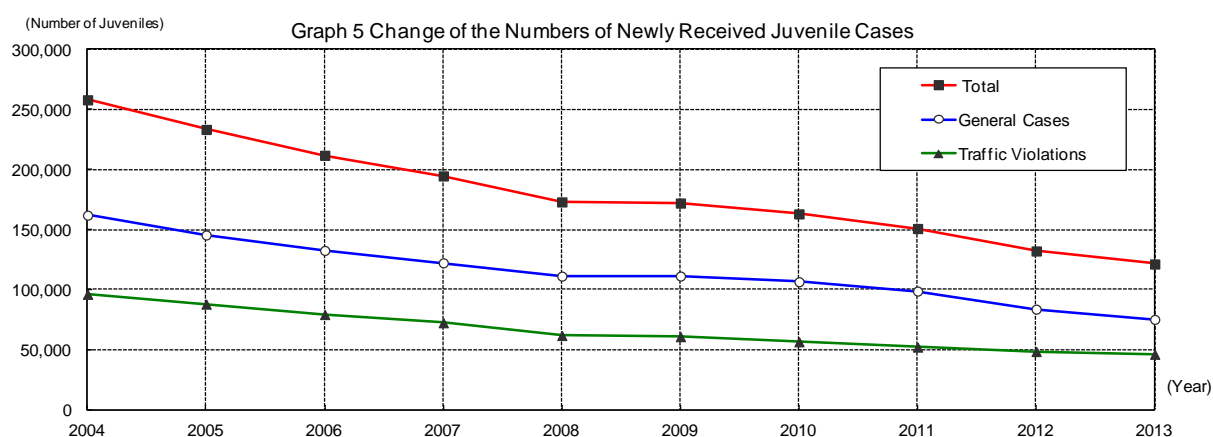
The number of juveniles newly received in juvenile cases has been decreasing since 2002, marking 121,300 in 2013 (about a 8.2% decrease from the previous year).

Over the last decade, the number of juveniles received for vicious crimes (homicide, arson, robbery and rape) had also been on a declining trend, but it has stayed around the level of 800 persons since 2010, standing at 770 persons in 2013 (down by about 7.7% over the previous year).

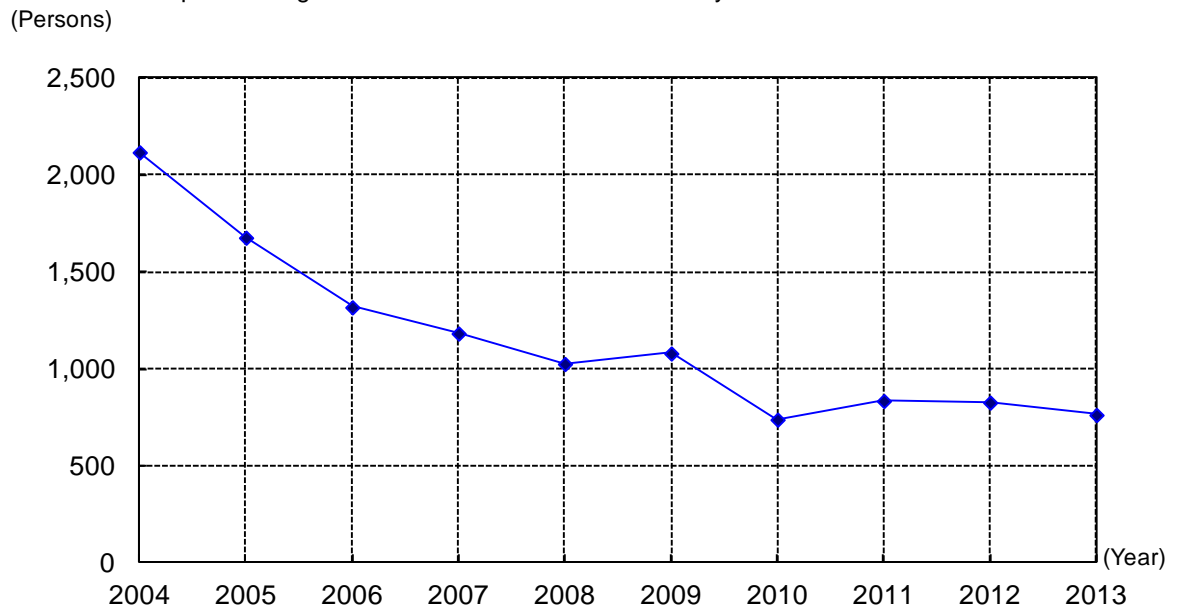
The decline in the number of newly received juveniles is considered to be attributable to the decrease in the juvenile population. In the meantime, there are many serious cases that arouse social concerns and cases of juveniles who have deep-rooted problems in their nature and in their home or other environment. Accordingly, it is necessary to properly deal with complex and diverse cases.

Table 5 Annual Comparison of Numbers of Newly Received Juvenile Cases

	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
Total	258,040	233,356	211,799	194,650	172,995	172,050	163,023	150,844	132,142	121,284
General Cases	161,951	145,462	132,589	122,269	111,210	111,253	106,525	98,730	83,706	75,150
Traffic Violations	96,089	87,894	79,210	72,381	61,785	60,797	56,498	52,114	48,436	46,134

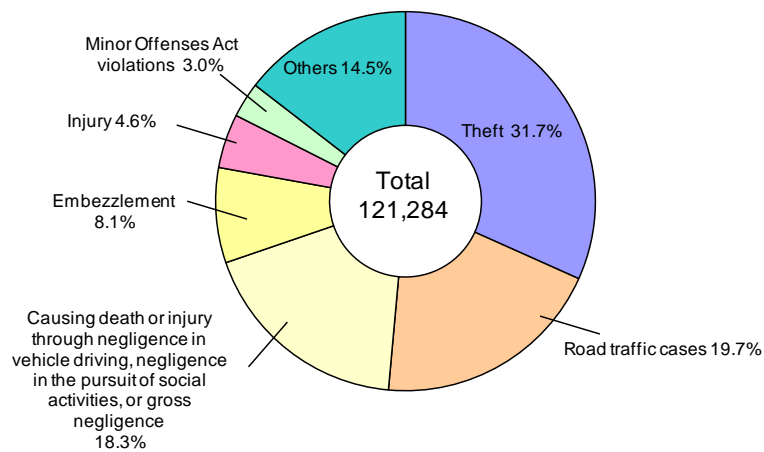


Graph 6 Change of the Numbers of Juveniles Newly Received for Vicious Crimes



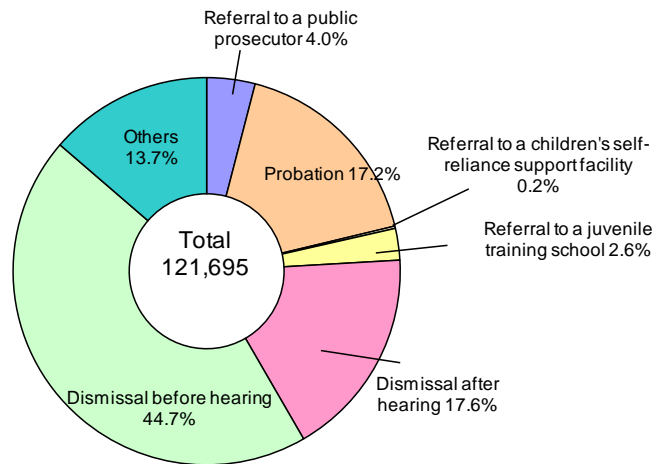
(Note) "Vicious crimes" collectively refers to robbery, homicide, arson and rape.

Graph 7 Percentage Distribution of Newly Received Juvenile Cases by Type of Delinquency (2013)



* As each percentage shown here is rounded off to one decimal place, adding up the percentages does not come to 100.

Graph 8 Percentage Distribution of Juvenile Cases
by Classification of Final Disposition (2013)



Supreme Court of Japan