

traordinarily high as compared with the rest of the world that it is probably necessary to establish a policy in the near future which will fundamentally solve these problems.

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2. Family Law

An Act Partially Amending the Civil Code, etc.

Promulgated on September 26, 1987. Ch.101. Effective as of January 1, 1988.

This Act includes the introduction of the special adoption system, partial amendment of the old adoption system, and the rationalization of the provisions concerning the change of a child's family name which accompanies the alteration of his family relationships. The Act amended the Civil Code, and also partially revised the Domestic Relations Adjustment Act and the Family Registration Act. The main amendment is the introduction to the Civil Code of the special adoption system; this is the most drastic reform since 1947 when the family law in the Civil Code was reformed overall.

The reform of the adoption system had been examined at Family Law Subcommittee in the Civil Law Section of the Advisory Committee on the Legal System since September 1982. In December 1985, "the interim tentative draft on the amendments to the adoption system" was published (See 6 Waseda Bulletin of Comparative Law 67), and the opinions of the general public, especially those of academic and judicial circles, were sought. The general principles of the interim tentative draft were supported by an overwhelming majority of opinions, and in light of those opinions, the bill for this Act was decided upon. Essentially, the outline of the Act is not different from

the interim draft. The issues of the old adoption system and the background of this legislation are omitted here because they were described in an earlier volume of this bulletin (6 Waseda Bulletin of Comparative Law 67).

[Outline of the Act and Comment]

1. The introduction of the special adoption system.

The special adoption system was newly established (Civil Code, Articles 817.2 to 817.11) as an addition to the old adoption system (the so-called "general adoption system"). The basics of the new system are as follows:

(1) A special adoption shall come into effect through a decree of the family court only when the adoption is required for the best interest of the child (Civil Code, Articles 817.2 and 817.7).

(2) The proposed adoptive parents shall be a husband and wife, and they shall be at least twenty-five years old (if one is at least twenty-five, the other may be at least twenty) (Civil Code, Articles 817.3 and 817.4).

(3) The proposed adoptee shall be under six years old unless, in the event that the child is under eight years old, the prospective parents have taken care of the child since before the child's sixth birthday (Civil Code, Article 817.5).

(4) The adoption decree shall not be issued unless each parent of the adoptee gives consent for the adoption (Civil Code, Article 817.6).

(5) The adoption decree shall not be issued unless the proposed adoptive parents have taken care of the proposed adoptee for at least six months (Civil Code, Article 817.8).

(6) The adoption decree shall terminate the legal bond between the adoptee and his natural parents, as well as those between the adoptee and his blood relatives; however, the adoptee shall still be subject to the prohibitions regarding marriage (Civil Code, Articles 817.9 and 734(2)). The adoption decree gives the adoptee the status of a legitimate child of his adoptive parents (Civil Code, Article 809 — no amendment).

(7) Dissolution of adoption shall not be allowed. However, only

when the adoptive parents abuse or desert their adoptee and his natural parents can take care of him, the family court shall be empowered to issue a decree abrogating the adoption, if the court is satisfied that freeing him is required in his interest (Civil Code, Article 817.10).

The names of the adoptee's natural parents are not to appear in the family register (*Koseki*), and the words "the adopted child," "the adoptive father" and "the adoptive mother" are also not to be used. However, the register will show the fact of the adoption; therefore if the adoptee wants to know his natural parents when he grows, he will be able to know them by researching on his own the records of the family register.

2. The partial amendment of the old adoption system.

Before the amendment, if one who had a spouse intended to be an adoptive parent or an adoptee, in either case he could not make an adoption contract unless he made it with his spouse jointly. This was criticized because it was not always necessary for a husband and wife to jointly be adoptive parents or adopted children, and because it was recognized that each of them should be permitted to individually be an adoptive parent or an adoptee. The Supreme Court held that when a husband and wife jointly made an adoptive contract with a proposed adoptee to be adoptive parents, the contract was valid only between the husband and the adoptee under special circumstances even though the wife did not have the intent to be an adoptive parent. Thus, the Court mitigated the requirement of cooperation with the other spouse (Supreme Court decision on April 12, 1973. 27 *Minshū* 500).

Therefore, this amendment requires cooperation only in the situation in which the spouses adopt a minor child (Civil Code, Article 795). Though there are other amendments, they are omitted here.

3. The rationalization of the provisions concerning the change of a child's family name which accompanies the change in his family relationships.

Before the amendment, when the family name of a child was

different from that of his father or mother, he was not allowed to use the family name of his father or mother unless the family court permitted. This was criticized as being unnecessary unless there was some dispute among the parties.

Therefore, this amendment made it possible to change a child's family name to that of his father or mother by simply recording in the family register without court permission; however, this may be done only while the parents are married (Civil Code, Article 791). For example, if a spouse or spouses are to be an adoptee, the family name of the parents will be different from that of their child. In such a case, this amendment simplifies the procedure concerning the change of a child's family name.

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3. Criminal Law and Procedure

Criminal Law

An Act Partially Amending the Criminal Code, etc.

Promulgated on June 2, 1987. Ch. 52. Effective as of June 22, 1987.

[Background of the Legislation]

The revision was the first since 1980. The reasons for the revision and the central issues of the amendment were on the following two points:

(1) With the widespread use of computers, crimes related to the improper use of computers had increased rapidly. However, this kind of crime was difficult to punish as a forgery of documents, fraud, etc. as had been done in the past. Therefore, it was necessary to have