



Press Release of the Ministry of Justice

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The Executive Yuan Council passed the Draft Amendments to the “Succession of the Civil Code” and the Draft Amendments to Article 2-1, 4, 9-1 of the “Enforcement Act of the Part of Succession of the Civil Code” and will submit a letter forwarding it to the Judicial Yuan and send it to the Legislative Yuan for review.

The Draft Amendments to the “Succession of the Civil Code” and the Draft Amendments to Article 2-1, 4, 9-1 of the “Enforcement Act of the Part of Succession of the Civil Code” drafted by the Ministry of Justice was passed by the Executive Yuan Council today (31st) and it will submit a letter forwarding it to the Judicial Yuan and send it to the Legislative Yuan for review.

The Amendments to the “Succession of the Civil Code” are for the purpose of complying with court practice, clarifying controversial issues and modernizing the Civil Code. The material amended contents are as follows:

A. Add Reasons for the forfeiture of the right to inheritance.

The situation of one who causes aggravated injury to the descendent intentionally, the behavior of “seriously ill-treatment”, is the reason for the forfeiture of the right to inheritance, and considering such behavior that has caused serious and incurable or not likely curable injury to the body or health, and by this reason one has committed and been convicted of crimes and one’s gross malice by such conduct, so the reasons for the forfeiture of the right to inheritance were added. By the viewpoint of the court practice, one who has an

obligation of maintenance toward the descendent but intentionally does not perform this obligation, such behavior is also “serious ill-treatment”. In order to clarify it, the reasons for the forfeiture of the right to inheritance were added, including that the successor seriously ill-treats, insults, or without justifiable reason does not fulfill one’s obligation for maintenance of the descendent. The descendent shows the one who is forbidden to inherit that is also the reason of the forfeiture of the right to inheritance and for preventing the difficulty to prove it later, the descendent should express the forfeiture of the right to inheritance of the successor with will, written form, recording, video or other means that may make sure the successor’s true meaning. (Amended the Article 1145)

B. Adjustment to the limitation for the partition of the inheritance.

The prevailing provisions stipulate that the time limit for forbidding partition of the inheritance by a will is 10 years, which may interfere with economic development and use of assets in the present industrial and business society. This amendment reduces it to 5 years (Amended the Article 1165). In addition, an unborn child as the successor, by the prevailing provisions, should keep the entitled inheritance portion before the partition of the inheritance; however, with advanced modern medical technology, artificial reproduction is common. If the partition is performed before the birth, and the birth is multiple births, the number of the successors is greater than the number of the reserve, while other successors have already disposed their partitioned inheritances and make the entitled portions less after the birth and there is no possibility of recovery. This will cause disadvantageous effects on the unborn children and does not conform to the purpose of protecting their interests. The provisions were amended, therefore, so that when there is an unborn child as the successor, the

partition of the inheritance should be performed after the birth (Amended the Article 1166).

C. Clarification of the means of the will.

The will's signature, other than the holograph will, must be made by one personally, whether the other wills should be signed by one personally or not is still in dispute. This amendment refers to the viewpoint of the court practice, expressly stipulates that unless there is another provision stipulated besides this Section, the will should be signed by one personally, and cannot be replaced by a chop stamp, finger-print, cross drawing or other marks (Amended the Section 2 of Article 1189). In addition, to conform to the trend of information and technology amends the requirement of the will and adds the will by writing or noting, other than a holograph will, can be replaced by the written form made by a computer or automatic machine (Amended the Section 3 of Article 1189), and adds the means of audio or video recording to the oral will and considering the emergency of force majeure or any other unavoidable cause, for example, the notary were buried by an earthquake or the plane was hijacked and there is an obvious difficulty to appoint a witness while making the oral will. In order to let the notary perform the right to make a will during an emergency, this amendment reduces the limits on the provision of appointing a witness, but the notary should record the contents of the entire oral will with the form of audio or video by cell phone, or video recorder or similar machine for posterior verification. When the forces majeures or other inevitable incidents cease, the notary can make a will by other means, and the oral will made during the emergency becomes invalid (Amended the Item 2 of Article 1195, the Section 2 of Article 1196).

D. Delete family council.

When there is infrequent communication among family members in modern industrial and business society, to call a family council is difficult, so that it has no function, the provisions about family council are amended. For example, the prevailing provision which stipulates that the portion of the inheritance allocated by the family council was amended, so that the portion of the inheritance allocated by the claimant claims to the successor (Amended the Article 1149). In order to smoothly produce a manager for the property of the deceased, the prevailing provisions that stipulate the related procedure of family council are deleted, and amended so that the stakeholders or the representative prosecutors may apply to the court for appointment of a manager for the property of the deceased (Amended the Article 1177, 1178).

E. Reduce the ratio of the compulsory portions.

The modern Civil Code has turned to the trend of independent personal property, so the allocation of the inheritance, should comply with the free will of the decedent. This amendment reduces the ratio of the compulsory portions as follows, spouse, lineal descendant by blood, parents reduced from $\frac{1}{2}$ to $\frac{1}{3}$; brothers and sisters, grandparents reduced from $\frac{1}{3}$ to $\frac{1}{4}$ (Amended the Article 1223).

These amendments rightly combine the present legal theory and court practice, overall review, amend the Succession Law of the Civil Code and the Enforcement Law for Part of Succession Law of the Civil Code that not only complete the nation's succession system, but also improve the protection of the rights of citizens' status.