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Assertion of maintenance during the separation phase

Heruntergeladen am 08.07.2025

<https://fimportal.de/xzufi-services/121342276/L100002>

Modul	Sachverhalt
Leistungsschlüssel	99046016002000, 99046016002000
Leistungsbezeichnung I	Assertion of maintenance during the separation phase
Leistungsbezeichnung II	Assertion of maintenance during the separation phase
Typisierung	2/3 - Bund: Regelung (2 oder 3), Land/Kommune: Vollzug
Quellredaktion	Nordrhein-Westfalen
Freigabestatus Katalog	fachlich freigegeben (gold)
Freigabestatus Bibliothek	fachlich freigegeben (silber)
Begriffe im Kontext	
Leistungstyp	Leistungsobjekt mit Verrichtung
Leistungsgruppierung	Gerichtliche Leistungen (046)
Verrichtungskennung	Festsetzung (002)
SDG-Informationsbereich	Leben in einer binationalen Partnerschaft, auch einer gleichgeschlechtlichen Partnerschaft (Eheschließung, zivile/eingetragene Partnerschaft, Trennung, Scheidung, Güterrecht, Rechte von Lebenspartnern)

Modul	Sachverhalt
Lagen Portalverbund	Scheidung (1020400)
Einheitlicher Ansprechpartner	Nein
Fachlich freigegeben am	05.10.2020
Fachlich freigegeben durch	Senator for Justice and Constitution of the Free Hanseatic City of Bremen
Handlungsgrundlage	https://www.gesetze-im-internet.de/bgb/_1361.html https://www.gesetze-im-internet.de/famfg/_111.html https://www.gesetze-im-internet.de/famfg/_113.html https://www.gesetze-im-internet.de/famfg/_114.html https://www.gesetze-im-internet.de/famfg/_231.html https://www.gesetze-im-internet.de/famfg/_269.html https://www.gesetze-im-internet.de/famfg/_270.html https://www.gesetze-im-internet.de/famfg/_232.html
Teaser	If you are married or in a registered civil partnership but living separately, you can demand reasonable maintenance from your partner even before the divorce.
Volltext	If you are unable to agree on an appropriate amount of maintenance with your spouse who is separating, you can assert your claim for separation maintenance in court. The course of such court proceedings is essentially based on the rules applicable to civil proceedings. The claim for separation maintenance is calculated according to the recognized principles of maintenance calculation, which fill out the undefined legal terms of the maintenance law. For details, please contact a lawyer. Further information can also be found in the maintenance law guidelines of the higher regional courts.
Erforderliche Unterlagen	• Proof of income, assets and personal and economic circumstances
Voraussetzungen	In principle, a claim for separation maintenance presupposes that

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- the spouses or partners live separately,
- the need is determined according to the marital living conditions,
- the claimant is needy (the income and payment obligations of the person claiming maintenance as well as the obligation to his or her own gainful employment are decisive here).
- the respondent is capable of paying.
- For details, please contact a lawyer.

Kosten

- Court costs
- Legal fees
- both depend on the amount in dispute

Verfahrensablauf

An application to enforce separation maintenance can only be filed by a lawyer.

- The further course of the court proceedings is essentially governed by the provisions on civil proceedings.
- The court sends the application to the defendant. The defendant is given the opportunity to comment.
- The family court then sets an amount for maintenance.
- The court may order the parties to provide information about their income, assets, and personal and economic circumstances. If you and your former (spouse) partner do not comply with this order, the court can independently obtain information, e.g. from employers or insurance companies.

Bearbeitungsdauer

- At least 3 months due to the prescribed procedure, in more complex procedures possibly longer, depending on the individual case

Frist

You must assert your claim in good time during your separation phase. You are only entitled to retroactive maintenance under certain conditions.

weiterführende Informationen

<https://www.oberlandesgericht.bremen.de/information/en/unterhaltsleitlinien-1616>
<https://www.bmfsfj.de/>

Hinweise

Modul	Sachverhalt
Rechtsbehelf	Appeal pursuant to §§ 58 et seq. FamFG against the family court decision within one month by a lawyer or attorney-at-law
Kurztext	• Separation maintenance fixing • Separation maintenance can be demanded only in the time of the separation up to the divorce • Obligation to be represented by a lawyer • The prerequisite for separation maintenance is: Separation of the spouses or partners indigence of the claimant Capability of the claimant to pay. • Competent: Local court - family court
Ansprechpunkt	• Please consult a lawyer.
Zuständige Stelle	• Local Court - Family Court (Sections 23a (1) Sentence 1, 23b (1) GVG) • The local court - family court - responsible for you in accordance with §§ 232 f. FamFG will be determined by the lawyer appointed by you.
Formulare	None
Ursprungsportal	Assertion of maintenance during the separation phase, Geltendmachung von Unterhalt während der Trennungsphase