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Guardianship, arrangement and appointment by the court

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Modul	Sachverhalt
Leistungsschlüssel	99126011088000
Leistungsbezeichnung I	Guardianship, arrangement and appointment by the court
Leistungsbezeichnung II	Guardianship, arrangement and appointment by the court
Typisierung	2/3 - Bund: Regelung (2 oder 3), Land/Kommune: Vollzug
Quellredaktion	Sachsen
Freigabestatus Katalog	unbestimmter Freigabestatus
Freigabestatus Bibliothek	unbestimmter Freigabestatus
Begriffe im Kontext	
Leistungstyp	
Leistungsgruppierung	
Verrichtungskennung	
SDG-Informationsbereich	
Lagen Portalverbund	

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Einheitlicher Ansprechpartner	
Fachlich freigegeben am	
Fachlich freigegeben durch	
Handlungsgrundlage	<ul style="list-style-type: none"> • §§ 1773 bis 1808 Bürgerliches Gesetzbuch (BGB), Viertes Buch – Vormundschaft • § 3 Rechtspflegergesetz (RPfLG) – Übertragene Geschäfte • § 14 RPfLG – Kindschafts- und Adoptionssachen • §§ 151 ff. Gesetz über das Verfahren in Familiensachen und in den Angelegenheiten der freiwilligen Gerichtsbarkeit (FamFG) – Kindschaftssachen • § 158c Absatz 2 FamFG in Verbindung mit § 277 – Verfahrensbeistand
Teaser	<p>If underage children have lost their parents through death or if their parents are deprived of parental custody as part of family court proceedings, the family court appoints a guardian.</p>
Volltext	<p>If underage children have lost their parents through death or if their parents are deprived of parental custody as part of family court proceedings, the family court appoints a guardian.</p> <p>The procedure explained below includes the appointment of a guardian, the selection and appointment of the guardian (if necessary, several guardians and a counter-guardian) by the competent court.</p> <p>Note: If the parents are only partially deprived of custody of their child during the divorce, for example, the family court will order a so-called supplementary guardianship for individual tasks (example: contact guardianship).</p> <p>Guardianship by law</p> <p>If parents do not exercise custody due to legal regulations, guardianship is automatically the</p>

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responsibility of the youth welfare office. This so-called statutory official guardianship takes place

- for a child whose parents are not married and who is not under parental custody at birth (because the mother is not yet of legal age),
- with consent to adoption (if neither parent has parental custody).

In this case, the locally competent youth welfare office takes over the guardianship without an explicit order from the court (youth welfare office as guardian) and only receives a certificate from the family court confirming the commencement of guardianship.

The court can take into account the wish for a specific guardian. On application, the family court can appoint the grandmother as guardian for the child of a minor mother even before the birth (assuming the necessary suitability).

Guardianship by court order

The court orders guardianship ex officio if

- neither the mother nor the father are authorised to legally represent the child (example: custody has been revoked or is suspended because the parents cannot be found),
- the parents cannot be traced (in the case of foundlings).

Erforderliche Unterlagen

none

Voraussetzungen

Death of the parents of a minor child or withdrawal of parental custody through family court proceedings.

Kosten

- Procedural fee: depending on the assets of the ward
- other expenses (such as costs for a guardian ad litem)

Verfahrensablauf

The local court usually receives notification that guardianship is necessary from the youth welfare office or the registry office.

At the beginning of the proceedings, the family court provides the minor child (ward) with a guardian ad

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litem, insofar as this is necessary to protect his or her interests in the court proceedings.

Selection

- If the parents are deceased, the family court will first examine whether a guardian has been named in a last will and testament.
- If the parents have not made any arrangements or if the person named does not fulfil the responsibility, suitable persons must be sought. In particular, relatives should be taken into account.
- Relatives, close acquaintances of the family and, in principle, the child and the youth welfare office should be heard in the proceedings. The child is always heard when he or she has reached the age of 14.

If there is no suitable person to act as an honorary individual guardian, the Youth Welfare Office can also be appointed as guardian.

Appointment

- The family court makes a decision on the appointment of the guardian (if necessary also on the appointment of a co-guardian or counter-guardian); the guardian receives a certificate of appointment.
- The appointment of an official guardian (youth welfare office) is made by the family court in a written order; the youth welfare office receives a written certificate confirming the appointment of the official guardian.

Bearbeitungsdauer

Frist none

weiterführende Informationen

Hinweise

Application for a change of guardian

If this is in the best interests of the child, the family court must dismiss the previously appointed guardian and appoint a new guardian. The family court is obliged to do this ex officio.

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The appointment of another guardian can also be applied for or suggested to the family court at any time by the youth welfare office, the child, the parents or close relatives.

In each case, the court examines whether the proposed person is suitable for the mandate. As part of the examination, the court must hear the youth welfare office, the child and the child's parents as well as any relatives and in-laws of the child.

Rechtsbehelf

non applicable

Kurztext

Ansprechpunkt

Zuständige Stelle

Formulare

Ursprungsportal