

99046039000000

Divorce, apply for compound proceedings

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Modul	Sachverhalt
Leistungsschlüssel	99046039000000
Leistungsbezeichnung I	Divorce, apply for compound proceedings
Leistungsbezeichnung II	Divorce, apply for compound proceedings
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	
Einheitlicher	

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Ansprechpartner	
Fachlich freigegeben am	
Fachlich freigegeben durch	
Handlungsgrundlage	<ul style="list-style-type: none"> • §§ 1564 ff. Bürgerliches Gesetzbuch (BGB) – Scheidung der Ehe • §§ 133 ff. Gesetz über das Verfahren in Familiensachen und in den Angelegenheiten der freiwilligen Gerichtsbarkeit (FamFG) – Verfahren in Scheidungssachen und Folgesachen • §§ 43 und 44 Gesetz über Gerichtskosten in Familiensachen (FamGKG) – Ehesachen; Verbund
Teaser	<p>If there are other family matters to be heard and decided in addition to the actual divorce, the proceedings are often combined. Long-standing disputes with their unpleasant consequences (often with incalculable costs) can be avoided in this way. However, the subsequent matters are only heard in combined proceedings if the applications for them are submitted in good time.</p>
Volltext	<p>Combining divorce and related matters pursuant to section 137 of the Act on Proceedings in Family Matters and in Matters of Voluntary Jurisdiction (Gesetz über das Verfahren in Familiensachen und in den Angelegenheiten der freiwilligen Gerichtsbarkeit - FamFG)</p> <p>If there are other family matters to be heard and decided in addition to the actual divorce, the proceedings are often combined. Long-standing disputes with their unpleasant consequences (often with incalculable costs) can be avoided in this way. However, the subsequent matters are only heard in combined proceedings if the applications for them are submitted in good time.</p> <p>Pension rights adjustment</p> <p>Only the equalisation of pensions is still decided in compulsory proceedings. Even without an application, the court always decides ex officio how the different</p>

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pension entitlements of the partners are to be balanced out.

Divorce and other family matters

At the request of one of the parties, the family court can hear so-called divorce-related matters (spousal maintenance, child maintenance, custody, access rights, allocation of housing, household effects, property law).

If the application for the divorce-related matter (maintenance, housing allocation, household effects, matrimonial property law) is filed in due time at the latest two weeks before the oral hearing in the divorce case, a union is automatically created. This means that the court that is responsible for the divorce is responsible for these subsequent matters and they are heard and decided jointly there.

Proceedings concerning parental custody or rights of access become related matters if one of the spouses applies for inclusion in the related proceedings before the end of the oral proceedings in the first instance in the divorce case, unless the court does not consider inclusion to be appropriate for reasons of the best interests of the child.

Contact

a legal representation of your choice

→ Anwaltssuche Rechtsanwaltskammer Sachsen

Erforderliche Unterlagen

The petition must contain:

- The names and dates of birth of the joint minor children, details of their place of residence ("habitual residence")
- a statement as to whether the spouses have made arrangements with regard to their joint minor children concerning parental care contact the obligation to pay maintenance

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- the declaration as to whether the spouses have made arrangements concerning the maintenance obligation arising from the marriage the legal relationship to the matrimonial home and the household effects
- information as to whether there are any other family cases pending before the court in which both spouses are involved

Further documents:

The marriage certificate and the birth certificates of the joint minor children should be attached to the petition.

The other party must agree to a divorce by mutual consent. Consent can be declared to the registry of the local court in writing or at the hearing.

In the case of a non-consensual divorce, the corresponding applications or counter-applications must be added.

Voraussetzungen

- If both spouses agree to a divorce, only the one-year separation period must be proven.

Only if undue hardship can be claimed, divorce is exceptionally possible even after less than one year of separation.

- A contested divorce is only possible after a separation period of three years (then the failure of the marriage is irrefutably presumed).

However, an earlier divorce is possible in this case if the applicant proves beforehand that the marriage has broken down.

As a rule, however, the court does not grant the petition for divorce until the pending consequential matters such as

- Pension rights adjustment,
- Alimony,
- Matrimonial home and
- Household effects

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	are ready for a decision and can be decided on together (divorce union).
Kosten	<ul style="list-style-type: none"> • Court and lawyer's fees: depending on the procedural value determined by the court <p>Procedural value</p> <ul style="list-style-type: none"> • at least EUR 3,000 • at most EUR one million <p>How high the procedural value is essentially depends on the assets and income of the spouses. The calculation is based on the sum of the net income of both spouses from three months and the assets. In general, the spouses each pay half of the court costs, and each side pays its own lawyer's fees.</p> <p>Court fees</p> <p>The divorce case and the subsequent matters are considered as one proceeding, and the fees are determined according to the combined value of the subjects of the proceedings. All circumstances of the individual case are taken into account, in particular</p> <ul style="list-style-type: none"> • the extent and the importance of the matter as well as • the assets and income situation of the spouses. <p>Lawyers' fees</p> <p>The law firm usually submits the final bill when it sends you the court decision on the divorce.</p>
Verfahrensablauf	<p>Choose a lawyer you trust (if necessary, enquire at the bar association).</p> <ul style="list-style-type: none"> • After the consultation, you give the lawyer the divorce order and the power of representation (prepared by the lawyer). • The lawyer sends you a draft of the divorce petition. • You confirm to the lawyer that you agree with the draft and transfer the advance payment for court costs and, if applicable, the advance payment for the

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lawyer's fee.

- After receipt of the payment, the law firm submits the divorce petition to the competent district court.
- At the same time, your lawyer can file applications for the subsequent matters, such as maintenance, custody, equalisation of gains, household and transfer of the matrimonial home.

In court

- The court sends the divorce petition to the other party and gives them the opportunity to comment.
- The other party only needs to be represented by a lawyer if they do not agree to the divorce petition or if they want to file their own (subsequent) petitions.
- If the court sends you a pension equalisation form to determine claims to pensions or other retirement benefits, you must use this form to provide information.
- The court sets a date for the oral hearing, usually as soon as the information on the pension entitlements is available.
- The court is required to order the appearance of the spouses and to hear both of them in person - if necessary also separately.
- If there are joint minor children and parental custody or rights of access are part of the proceedings, the court also hears the spouses on this and points out the possibilities of counselling. The other pending related matters are also discussed.
- The court may order the spouses to participate individually or jointly in a free information session on mediation or other possibilities of out-of-court settlement of disputes in matters following divorce.
- In connection with the divorce, the court decides on the petitions concerning the consequential matters; witnesses may be called for this purpose.

The family court pronounces the divorce if it is convinced that the marriage has failed. The written statements and the result of the oral proceedings are taken into account in the final decision.

Note: If both sides are each represented by a lawyer, the divorce can become legally binding immediately

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	through a mutual waiver of appeals and cross-appeals.
Bearbeitungsdauer	nine months (average duration of divorce cases at the local courts in Saxony in 2019) The duration of proceedings can be extended by disagreements on the subsequent matters.
Frist	<ul style="list-style-type: none"> • Consideration of petitions for related matters: Receipt by the court at the latest two weeks before the divorce hearing
weiterführende Informationen	
Hinweise	
Rechtsbehelf	<ul style="list-style-type: none"> • Divorce petition • Petition on Matters Arising from Divorce in Association
Kurztext	
Ansprechpunkt	
Zuständige Stelle	
Formulare	
Ursprungsportal	