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File a custody order with the court

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<https://fimportal.de/xzufi-services/6000934-99126015089000/L100009>

Modul	Sachverhalt
Leistungsschlüssel	99126015089000
Leistungsbezeichnung I	File a custody order with the court
Leistungsbezeichnung II	File a custody order with 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	
Einheitlicher Ansprechpartner	
Fachlich freigegeben am	

Modul

Sachverhalt

Fachlich freigegeben durch

Handlungsgrundlage

- § 1773 Bürgerliches Gesetzbuch (BGB) – Voraussetzungen der Vormundschaft
- §§ 1778 bis 1785 BGB – Auswahl des Vormunds
- Gesetz über Kosten der freiwilligen Gerichtsbarkeit für Gerichte und Notare (Gerichts- und Notarkostengesetz – GNotKG), Anlage 1 (zu § 3 Absatz 2) Kostenverzeichnis, Nummer 12410 Entgegennahme von Erklärungen und Anzeigen

Teaser

With a custody decree in the form of a so-called testamentary disposition (will or inheritance contract), parents or single parents have the opportunity to regulate in advance who is to represent their minor children after their death.

Volltext

Deposit of a custody decree regarding the guardianship or care of a minor child in the event of death or incapacity to act pursuant to section 1782 of the German Civil Code (BGB)

With a custody decree in the form of a so-called testamentary disposition (will or inheritance contract), parents or single parents have the opportunity to regulate in advance who is to represent their minor children after their death.

With the custody decree, they can not only name persons as well as a substitute guardian to represent the child, but also explicitly exclude persons from guardianship.

Custody decision by the court

If there is no custody decree, the court decides in the best interests and for the benefit of the child. However, even if a custody order exists, the court decides whether the person named is suitable to be a guardian. However, the court can only deviate from the custody order if there are justified doubts about the suitability of the proposed person.

Informing all parties involved in the custody order

Modul

Sachverhalt

Before you name a guardian in your custody order, you should talk to them about it and inform them. To ensure that the interests of all parties involved, including the child, are protected, you should also update the custody order every year and adapt it to changing circumstances.

The custody order can also be combined. In addition to naming a guardian, you can specify concrete conditions for the administration of inherited property and separate guardianship from the care of property and divide it among different persons.

Note: Children who have reached the age of 14 can oppose the custody order.

Filing the custody order

The most important thing, however, is that your custody order can take effect immediately after death. For this to happen, the custody order must be traceable. You have various options for depositing the custody order. In addition to depositing it with a possible guardian, it is also possible to deposit the custody order - as a testamentary disposition - with the probate court for a fee.

Once deposited, the custody order is valid until the child mentioned in it reaches the age of majority and the custody order thus expires. If you wish to revoke the custody order, you must notify the probate court and order the termination of the deposit.

After more than 30 years in official custody, the custodian will ex officio determine whether the will with the custody order contained therein is still valid and, if there was only a custody order, will automatically delete it.

Contact

ein Notariat Ihrer Wahl

Modul	Sachverhalt
	→ Notarsuche Notarkammer Sachsen
Erforderliche Unterlagen	are to be requested from the responsible office
Voraussetzungen	<p>The basic prerequisite for drafting a custody order is that you, as the author, are entitled to custody and thus legally have a right of appointment. In addition, the appointed guardian must be of age.</p> <p>Since you can only deposit the custody order with the probate court in the form of a will, and since the custody order is legally a special type of will, certain formalities must be observed for the document to be legally valid. These would be, for example:</p> <ul style="list-style-type: none"> • the custodians must handwrite the will themselves • the custodians must sign with their first and last names • the custody decree must be dated and signed <p>Note: You can also seek the advice of notaries, lawyers, guardianship associations and guardianship authorities when drafting a custody order.</p>
Kosten	Minimum fee: EUR 15.00
Verfahrensablauf	<ul style="list-style-type: none"> • You make a custody order in the form of a will and talk about it with the appointed guardian and your child. • You take the original of the custody order and bring it to the probate court. • There, a deposition record is made, which must be signed by the person depositing it. • You will then receive a cost notice for the deposit fee and a deposit certificate. • After payment of the fee, your custody order is deposited with the probate court in the form of a will and can thus be found safely in the event of death. <p>Note: In addition to the option of seeking advice from a notary, he or she can also deposit the custody order with the probate court on your behalf.</p>
Bearbeitungsdauer	
Frist	none

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weiterführende Informationen	
Hinweise	<p>There are forms and samples of custody orders that give you a formulation aid. In addition, you can also better comply with the formalities that are required for a custody decree.</p> <p>Please note, however, that the custody decree must be handwritten!</p>
Rechtsbehelf	non applicable
Kurztext	
Ansprechpunkt	
Zuständige Stelle	
Formulare	
Ursprungsportal	