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# Withdrawal/return of a disposition of property upon death from special official custody

Heruntergeladen am 29.06.2025

<https://fimportal.de/xzufi-services/117133825/L100027>

Modul	Sachverhalt
Leistungsschlüssel	99046018090000, 99046018090000
Leistungsbezeichnung I	Withdrawal/return of a disposition of property upon death from special official custody
Leistungsbezeichnung II	Withdrawal/return of a disposition of property upon death from special official custody
Typisierung	2/3 - Bund: Regelung (2 oder 3), Land/Kommune: Vollzug
Quellredaktion	Mecklenburg-Vorpommern
Freigabestatus Katalog	unbestimmter Freigabestatus
Freigabestatus Bibliothek	unbestimmter Freigabestatus
Begriffe im Kontext	
Leistungstyp	Leistungsobjekt mit Verrichtung
Leistungsgruppierung	Gerichtliche Leistungen (046)
Verrichtungskennung	Rückgabe (090)

Modul	Sachverhalt
SDG-Informationsbereich	Erbansprüche und -pflichten in einem anderen Mitgliedstaat, einschließlich Steuervorschriften
Lagen Portalverbund	
Einheitlicher Ansprechpartner	Nein
Fachlich freigegeben am	06.07.2021
Fachlich freigegeben durch	Ministry of Justice Mecklenburg-Western Pomerania Ref. II 3, JM NRW
Handlungsgrundlage	<a href="https://www.gesetze-im-internet.de/bgb/_2256.html">https://www.gesetze-im-internet.de/bgb/_2256.html</a> <a href="https://www.gesetze-im-internet.de/famfg/">https://www.gesetze-im-internet.de/famfg/</a> <a href="https://www.gesetze-im-internet.de/bgb/_2256.html">https://www.gesetze-im-internet.de/bgb/_2256.html</a> <a href="https://www.gesetze-im-internet.de/famfg/">https://www.gesetze-im-internet.de/famfg/</a>
Teaser	Withdraw a disposition of property upon death (e.g. a will or a contract of inheritance) from special official custody.
Volltext	<p>If you have placed a testamentary disposition (e.g. a will or a contract of inheritance) in special official custody with the court or if it was deposited there by the notary at your instigation, you can have it returned to you from the special official custody. The request can be made at any time. If you have made the disposition of property upon death jointly with your spouse or civil partner, it can only be returned to both of you upon mutual request. If you have concluded an inheritance contract, all contracting parties must request its return. In certain constellations, withdrawal from official custody also means revocation of the deposited disposition of property upon death, e.g. in the case of notarized wills. Therefore, in these constellations, the testator must be capable of making a will at the time of the request for return. The request can also be made by a deputy. However, the restitution can only be made to the testator himself.</p>
Erforderliche Unterlagen	<ul style="list-style-type: none"> <li>• Identity card or passport with certificate of registration</li> <li>• Deposit certificate (presentation is not mandatory, but will make it easier to find your disposition of death).</li> </ul>

Modul	Sachverhalt
Voraussetzungen	<ul style="list-style-type: none"> <li>• If possible in person; however, the request for return from special official custody can also be made in writing or by a representative. However, the actual handover can only be made to you personally.</li> <li>• Actual possibility of identification by presentation of identity card or passport with certificate of registration.</li> <li>• Testamentary capacity, if applicable</li> <li>• A joint will may only be returned to both spouses/partners.</li> <li>• An inheritance contract may only be returned to all contracting parties jointly.</li> </ul>
Kosten	none
Verfahrensablauf	<p>If you wish to withdraw a disposition of property upon death from special official custody, it is advisable to proceed as follows:</p> <ul style="list-style-type: none"> <li>• Please contact the probate court responsible for you and make an appointment.</li> <li>• If you have made joint wills, all testators must make the request and also jointly accept the disposition of property upon death. This also applies mutatis mutandis if you have concluded an inheritance contract. In this case, all contracting parties must submit the application.</li> <li>• Please bring your identity card and, if available, the deposit certificate to the appointment.</li> <li>• When the disposition of property upon death is returned, the Rechtspfleger may check your testamentary capacity. This is because under certain circumstances the withdrawal from official custody also acts as a revocation of the deposited disposition of property upon death.</li> <li>• The court reports the return to the Central Register of Wills.</li> </ul>
Bearbeitungsdauer	Usually the matter is settled at the first appearance.
Frist	none
weiterführende Informationen	
Hinweise	

**Modul**
**Sachverhalt**
**Rechtsbehelf**

If surrender to the testator is refused, the Rechtspfleger decides by order, section 38 FamFG. The testator may lodge an appeal against the refusal for a limited period, sections 58 ff, 63 FamFG, 11 RPflG.

If a clerk of the court was functionally responsible instead of the Rechtspfleger under state law, a reminder must be lodged by analogy with section 573 of the Code of Civil Procedure.

**Kurztext**

- Return of a will
- A disposition of property upon death (e.g. a will or contract of inheritance) deposited with the local court and in special official custody is returned to the testator at the latter's request.
- A joint public or handwritten will can only be revoked by both spouses/partners.
- If it is an inheritance contract, all parties to the contract must request its withdrawal.
- The request can be made orally or in writing at any time. However, the redemption can only be made to the testator personally.
- Since the redemption may at the same time be a disposition on account of death [a public will, e.g. a notarial will (§ 2232 BGB) or a mayor's emergency will (§ 2249 BGB), is deemed to be irrefutably revoked if the document taken into official custody is returned to the testator, § 2256 BGB], the testator's testamentary capacity is also required at the time of the redemption in these certain cases.
- If the testator dies, the deposited will is not returned, but is opened by the probate court if necessary.
- If, on the other hand, a will is found by a third party after the death of the testator, he or she must deliver it to the probate court, § 2259 BGB. The probate court takes this will into the probate file. In this context, one speaks of (simple) official custody.

**Ansprechpunkt**

The competent local court is the one with jurisdiction pursuant to § 344 FamFG.

**Zuständige Stelle**

The competent local court is the one with jurisdiction pursuant to § 344 FamFG.

**Formulare**

Forms required: No

## Modul

## Sachverhalt

Online procedure possible: No

Written form necessary: No

Personal appearance required: Yes You may be represented when making the application or you may make the application in writing. However, the return of the disposition of death can only be made to you personally.

## Ursprungsportal

Withdrawal/return of a disposition of property upon death from special official custody, Withdraw a disposition of death from special official custody, Verfügung von Todes wegen aus der besonderen amtlichen Verwahrung zurücknehmen