

99046071061000, 99046071061000

Legal guardian: Apply for appointment

Heruntergeladen am 09.06.2025

<https://fimportal.de/xzufi-services/9578142/L100027>

Modul	Sachverhalt
Leistungsschlüssel	99046071061000, 99046071061000
Leistungsbezeichnung I	Legal guardian: Apply for appointment
Leistungsbezeichnung II	
Typisierung	3 - Bundesaufsichtsverwaltung: Regelung
Quellredaktion	Mecklenburg-Vorpommern
Freigabestatus Katalog	unbestimmter Freigabestatus
Freigabestatus Bibliothek	unbestimmter Freigabestatus
Begriffe im Kontext	
Leistungstyp	Leistungsobjekt mit Verrichtung
Leistungsgruppierung	Gerichtliche Leistungen (046)
Verrichtungskennung	Bestellung (061)
SDG-Informationsbereich	nicht SDG-relevant
Lagen Portalverbund	
Einheitlicher Ansprechpartner	Nein

Modul	Sachverhalt
Fachlich freigegeben am	05.01.2011
Fachlich freigegeben durch	This text was released by the Ministry of Justice
Handlungsgrundlage	
Teaser	
Volltext	As part of the guardianship, the person concerned is assigned a guardian who acts on their behalf and represents them. The guardian is appointed by the guardianship court. The guardianship may not last longer than necessary. After seven years at the latest, a decision must be made on whether to terminate or extend the appointment of the guardian.
Erforderliche Unterlagen	
Voraussetzungen	The person concerned is unable to manage their own affairs due to a physical, mental or psychological disability or mental illness.
Kosten	
Verfahrensablauf	<p>****Initiation of the procedure****</p> <p>The person concerned can apply for the appointment of a guardian themselves. In all other cases, the guardianship court decides ex officio, even without an application from the person concerned. Third parties (e.g. family members or neighbors) can submit an informal application for legal guardianship to the guardianship court.</p> <p>****Position of the person concerned****</p> <p>The person concerned is in any case entitled to initiate proceedings, i.e. they can submit applications themselves and appeal against court decisions. The guardianship court must therefore inform the person concerned about the possible course of the proceedings. The person concerned must be informed of all decisions made by the guardianship court.</p> <p>If the person concerned is not in a position to safeguard their own interests, the guardianship court</p>

Modul

Sachverhalt

will appoint a **guardian ad litem** for the proceedings. The guardian is to support the person concerned in the proceedings (e.g. explain the individual steps of the proceedings, the content of the notifications from the guardianship court and the significance of the matter). The guardian of the proceedings must also inform the court of the wishes of the person concerned. Persons of trust from the family, friends and acquaintances as well as employees of care associations, social workers or lawyers can be appointed as guardians ad litem.

Apart from a few exceptional cases, the guardianship court must **hear** the person concerned **in person** and gain a personal impression of them before making certain decisions, such as the initial appointment of a guardian, the extension of their scope of duties or their dismissal against the wishes of the person concerned. This provision is intended to ensure that the guardianship judge is sufficiently informed about the personality of the person concerned.

The guardianship court should gain a direct impression of the person concerned in their usual surroundings if they request it or if it serves to clarify the matter. However, the person concerned should not be disturbed in their private sphere against their will. If the person concerned therefore objects to a visit by the guardianship judge, the hearing will take place on the official premises.

The hearing must be held in the presence of a guardian ad litem if one has been appointed. The guardianship court can also call in an expert at this stage of the proceedings. At the request of the person concerned, a person they trust may attend. The court may allow other persons to attend, but not against the wishes of the person concerned.

The result of the hearings, the expert opinion or the medical certificate as well as the person of the guardian and their possible area of responsibility are discussed with the person concerned, insofar as this is necessary to grant the right to be heard or to clarify

Modul

Sachverhalt

the facts (so-called final discussion). The final meeting may be combined with a personal interview with the person concerned.

****Involvement of third parties****

Before appointing a guardian or ordering a reservation of consent, the court must hear the other parties involved.

The guardianship authority is given the opportunity to make a statement if the person concerned requests this or if it serves to clarify the matter. As a rule, spouses, parents, foster parents and children should also be given the opportunity to comment.

At the request of the person concerned, the court must hear a person close to him or her if this is possible without significant delay.

****Expert opinions****

Apart from exceptional cases, a guardian may only be appointed and a reservation of consent may only be ordered if an expert opinion has been obtained on the necessity and scope of the guardianship and the probable duration of the need for assistance. The expert should be a doctor of psychiatry or a doctor with experience in the field of psychiatry.

The expert is obliged to personally examine and interview the person concerned before issuing his or her expert opinion. The expert opinion must comment on the clinical picture, the development of the illness, the examinations carried out, the physical and psychiatric condition of the person concerned, as well as the scope of the task and the duration of the measure.

****Decision****

The competent guardianship court decides after conducting the necessary hearings and investigations. If the court comes to the conclusion that the requirements for the appointment of a guardian are

Modul

Sachverhalt

met, it appoints the guardian and at the same time sets the date by which a decision must be made on the revocation or extension of the guardian's appointment at the latest.

The decision is ****notified**** to the person concerned, the guardian, the guardian ad litem and the guardianship authority. As a rule, the decision becomes effective upon notification to the guardian.

The guardian is appointed verbally by the guardianship court and receives a ****certificate**** of appointment. This document serves as ****proof**** of the possibility of representation. If the guardian is not personally known, it should be used together with the identity card, as it does not contain a photograph. The original document should not be sent to third parties; photocopies or certified copies are usually sufficient. The document shows the areas of responsibility for which the guardian has been appointed. Once the guardianship has ended, the document must be returned to the guardianship court.

****Temporary injunction****

The procedure described above, which requires the guardianship judge to carry out extensive investigations, takes a certain amount of time. However, it is often necessary to act quickly. In this case, a ****temporary guardian**** can be appointed, a temporary reservation of consent can be ordered, a guardian can be dismissed or the scope of duties of the appointed guardian can be temporarily extended in a simplified procedure by means of an interim order. However, such an ****emergency measure**** is only permissible under certain conditions and may ****not**** remain in place for ****longer than one year****. In particularly urgent cases, the guardianship court can take the necessary measures itself instead of a guardian as long as the latter has not yet been appointed or if he or she is unable to fulfill his or her duties.

****Legal remedies****

Modul
Sachverhalt

The following are possible legal remedies against the decisions of the guardianship court

- Appeal, the appeal period is generally one month and begins with the written announcement of the decision; an appeal period of only two weeks applies to appeals against interim orders and against decisions that relate to the approval of a legal transaction
- Reminder if the judicial officer has made a decision and this would not be contestable in the event of a decision by the judge

Which legal remedy can be considered in an individual case, where and how it is to be lodged, can be seen from the instructions on legal remedies that the guardianship court must attach to certain decisions. The regional court decides on the appeal. An appeal on points of law against the regional court's decision on the appeal is in turn admissible, provided that the appeal court has allowed it. In guardianship matters concerning the appointment of a guardian, the revocation of guardianship, the ordering or revocation of a reservation of consent, the appeal on points of law is admissible without admission. The court of appeal is the Federal Court of Justice. It is mandatory to have a lawyer.

Bearbeitungsdauer
Frist

None

weiterführende Informationen
Hinweise
Rechtsbehelf
Kurztext
Ansprechpunkt
Zuständige Stelle

to the guardianship court in whose district the person concerned has his/her habitual residence, i.e. his/her

Modul

Sachverhalt

actual center of life, at the time of filing the application.

A list of all courts can be found under the following link.

<https://www.mv-justiz.de/gerichte.htm>

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Formulare

Ursprungsportal

Legal guardian: Apply for appointment, Rechtlicher
Betreuer: Bestellung beantragen