

99013003025000, 99013003025000

# Replace a parent's consent to adoption

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<https://fimportal.de/xzufi-services/430271492/L100040>

| Modul                     | Sachverhalt  |
|---------------------------|--|
| Leistungsschlüssel        | 99013003025000, 99013003025000   |
| Leistungsbezeichnung I    | Replace a parent's consent to adoption   |
| Leistungsbezeichnung II   | Replace a parent's consent to adoption   |
| Typisierung               | 2/3 - Bund: Regelung (2 oder 3), Land/Kommune: Vollzug   |
| Quellredaktion            | Niedersachsen  |
| Freigabestatus Katalog    | unbestimmter Freigabestatus  |
| Freigabestatus Bibliothek | unbestimmter Freigabestatus  |
| Begriffe im Kontext       |  |
| Leistungstyp              | Leistungsobjekt mit Verrichtung  |
| Leistungsgruppierung      | Adoption (013)   |
| Verrichtungskennung       | Beratung und Belehrung (025)   |
| SDG-Informationsbereich   | Geburt, Sorgerecht für Minderjährige, elterliche Pflichten, Vorschriften für Leihmutterschaft und Adoption, einschließlich Stiefkindadoption, Unterhaltspflichten für Kinder bei |

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|                               | grenzüberschreitenden familiären Gegebenheiten   |
| Lagen Portalverbund           | Adoption und Pflegekinder (1020100)  |
| Einheitlicher Ansprechpartner | Nein   |
| Fachlich freigegeben am       | 02.07.2021   |
| Fachlich freigegeben durch    | Lower Saxony Ministry of Social Affairs, Health and Equality   |
| Handlungsgrundlage            | <a href="https://www.gesetze-im-internet.de/famfg/BJNR25870008.html#BJNR258700008BJNG000400000">https://www.gesetze-im-internet.de/famfg/BJNR25870008.html#BJNR258700008BJNG000400000</a><br><a href="https://www.gesetze-im-internet.de/famfg/BJNR25870008.html#BJNR258700008BJNG000700000">https://www.gesetze-im-internet.de/famfg/BJNR25870008.html#BJNR258700008BJNG000700000</a><br><a href="https://www.gesetze-im-internet.de/famfg/BJNR25870008.html#BJNR258700008BJNG002600000">https://www.gesetze-im-internet.de/famfg/BJNR25870008.html#BJNR258700008BJNG002600000</a><br><a href="https://www.gesetze-im-internet.de/bgb/_1748.html">https://www.gesetze-im-internet.de/bgb/_1748.html</a><br><a href="https://www.gesetze-im-internet.de/sgb_8/_51.html">https://www.gesetze-im-internet.de/sgb_8/_51.html</a>      |
| Teaser                        | For adoption, the consent of both parents and the child is required. In exceptional cases, the family court may replace one parent's consent to the adoption.  |
| Volltext                      | <p>If a child is to be adopted, both parents and the child must consent to an adoption. The consent of one of the parents may be replaced by the family court in certain exceptional cases.</p> <p>Replacement of a parent's consent is possible if he or she is indifferent to his or her child or grossly violates his or her duties to his or her child for a long period of time.</p> <p>In the aforementioned cases, consent can only be replaced if it would be particularly serious (disproportionate) disadvantages for the child concerned if adoption does not take place.</p> <p>It is also possible to replace a parent's consent if he or she has breached his or her parental duties in a particularly serious manner and it can therefore be assumed that the child will never live in that parent's household.</p> |

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Consent can also be substituted if a parent suffers from a particularly serious mental illness or a particularly serious mental or emotional disability and is therefore unable to care for and educate his or her child on a permanent basis and if, in such a case, the child's development would be seriously endangered if adoption does not take place.

In any case, a prerequisite for a replacement of consent is that it has a significant negative impact on the child concerned if it cannot be adopted. Slight disadvantages that may arise for the child if he or she is not adopted do not justify a substitution of consent to adoption.

If consent is to be replaced because a parent is indifferent to his or her child, the Youth Welfare Office is obliged to inform (instruct) the parent that a replacement of his or her consent is possible. It must point out to the parent that the family court may only replace the consent after three months have elapsed after the instruction.

This instruction is not required if the parent's whereabouts are not known and cannot be determined in three months despite the efforts of the Youth Welfare Office.

If consent is to be replaced because one parent is indifferent to his or her child, the Youth Welfare Office should inform (advise) this parent about what help can be offered if the parent himself were to take over the upbringing of his child in his family.

This counselling does not take place if the child has been in care for a longer period of time in the family that wants to adopt him or her and serious damage to the child would be expected if he or she were accepted into the parent's household.

The replacement of the father's consent is possible if the mother has sole parental authority over a child.

In the aforementioned cases, consent can only be replaced if it would be particularly serious

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(disproportionate) disadvantages for the child concerned if adoption does not take place.

In cases where the mother exercises sole parental custody, the Youth Welfare Office must advise the father on his legal options. What is meant here, for example, is a reference to the possibility of the father applying for sole parental custody of the child.

**Erforderliche Unterlagen**

No further documentation is required.

**Voraussetzungen**
**Kosten**

You will usually incur costs for family court proceedings to replace consent to an adoption.  
 You do not have to pay anything for the Youth Welfare Office's tasks in the proceedings.

**Verfahrensablauf**

- The application does not require any special form. It can be submitted in writing to the locally competent family court or declared to be the record of the legal application office.
  - Only the child himself or herself is entitled to apply:
    - For a child who has not yet reached the age of 14, the legal representative applies for the replacement of the parent's consent on behalf of the child. If the child has reached the age of 14 and is not legally incapacitated, he or she must apply for replacement himself.
  - The Family Court
    - involves the parent whose consent is to be replaced,
    - appoint, if necessary, a procedural counsel for the child,
    - consults the Youth Welfare Office and, if necessary, involves it at its own request,
    - decides by resolution whether it replaces the consent of a parent.
  - The decision shall be notified to the parties with instructions on how to appeal; it will be served on the one whose declared will it does not conform to.
  - The procedure must be legally concluded before a decision can be made on an application for acceptance. The substitution of consent shall take effect upon the entry into force of the decision.

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|------------------------------|---|
| Bearbeitungsdauer            | Processing usually takes several months.  |
| Frist                        | <ul style="list-style-type: none"> <li>• Consent to adoption can be replaced by the family court at the earliest 5 months after the birth of the child.</li> <li>• If the family court is to replace the consent because the parent is indifferent to the child, this can take place at the earliest 3 months after instruction by the youth welfare office, but in no case earlier than 5 months after the birth of the child.</li> </ul>                          |
| weiterführende Informationen |   |
| Hinweise                     |   |
| Rechtsbehelf                 | <p>Complaint pursuant to §§ 58 et seq. FamFG within one month</p> <p><a href="https://www.gesetze-im-internet.de/famfg/BJNR25870008.html#BJNR258700008BJNG000700000">https://www.gesetze-im-internet.de/famfg/BJNR25870008.html#BJNR258700008BJNG000700000</a></p> <p><a href="https://www.gesetze-im-internet.de/famfg/BJNR25870008.html#BJNR258700008BJNG000700000">https://www.gesetze-im-internet.de/famfg/BJNR25870008.html#BJNR258700008BJNG000700000</a></p> |
| Kurztext                     | <ul style="list-style-type: none"> <li>• Procedure for adoption as a child - counseling and instruction</li> <li>• both natural parents and the child must consent in writing to an adoption</li> <li>• the consent of one parent to the adoption of his or her child can be substituted by the family court</li> <li>• responsible: Adoption agency of the locally responsible youth welfare office</li> </ul>   |
| Ansprechpunkt                |   |
| Zuständige Stelle            |   |
| Formulare                    | <p>Forms available: No</p> <p>Written form required: Yes</p> <p>Informal application possible: No</p> <p>Personal appearance required: No</p> <p>Online services available: No</p>  |
| Ursprungsportal              | Replace a parent's consent to adoption, Die Einwilligung eines Elternteils in die Adoption ersetzen   |