

99126014088000

Heruntergeladen am 08.06.2025

<https://fimportal.de/xzufi-services/25532/L100042>

Modul	Sachverhalt
Leistungsschlüssel	99126014088000
Leistungsbezeichnung I	
Leistungsbezeichnung II	Parental custody; application for a decision by the family court
Typisierung	2/3 - Bund: Regelung (2 oder 3), Land/Kommune: Vollzug
Quellredaktion	Bayern
Freigabestatus Katalog	unbestimmter Freigabestatus
Freigabestatus Bibliothek	unbestimmter Freigabestatus
Begriffe im Kontext	
Leistungstyp	
Leistungsgruppierung	
Verrichtungskennung	
SDG-Informationsbereich	
Lagen Portalverbund	
Einheitlicher Ansprechpartner	

Modul	Sachverhalt
Fachlich freigegeben am	05.03.2025
Fachlich freigegeben durch	Bayerisches Staatsministerium der Justiz (Bavarian State Ministry of Justice)
Handlungsgrundlage	https://www.gesetze-im-internet.de/bgb/BJNR001950896.html#BJNR001950896BJNG015303377 https://www.gesetze-im-internet.de/bgb/BJNR001950896.html#BJNR001950896BJNG015303377 https://www.gesetze-im-internet.de/famfg/BJNR25870008.html#BJNR25870008BJNG002400000 https://www.gesetze-im-internet.de/famfg/BJNR25870008.html#BJNR25870008BJNG002400000
Teaser	The Local Court - Family Court decides in proceedings concerning the parental custody of a child.
Volltext	<p>The parents have the duty and the right to care for the minor child. Parental care includes the care of the child's person (personal care) and the child's property (property care). If the child is born in a marriage, the parents are entitled to joint custody. The same applies if parents who are not married to each other enter into a marriage.</p> <p>In the case of "illegitimate" children, the mother has sole custody. However, she can establish joint custody with the father if both of them submit declarations of custody in a publicly notarized form (before the youth welfare office or a notary). In addition, the local family court will transfer parental custody to both parents jointly at the request of one parent if the transfer is not contrary to the best interests of the child. It is presumed that joint parental custody is not contrary to the best interests of the child if the other parent does not present any reasons that could oppose the transfer of joint custody and no such reasons are otherwise apparent.</p> <p>If married parents no longer wish to maintain their marriage, for whatever reason, this also affects the children. They usually experience the process of their parents' separation and divorce as particularly painful and psychologically stressful. This is especially true if the parents are not aware that they have a</p>

Modul

Sachverhalt

responsibility towards their children even after separation and divorce and that they must not carry out their partnership conflicts on the backs of the children.

The separation or divorce of the parents alone does not change the fact that joint custody continues to exist in principle. In divorce proceedings, no ex officio decision is made on the custody of joint minor children. The family court only has to address the issue, inform the parents about the legal situation if necessary and ask about their ideas. If the parents do not apply for a decision on this, joint custody remains in place.

However, if the parents with joint custody live apart permanently, either parent can apply for the local court - family court to transfer parental custody or part of it to them - even independently of divorce proceedings or an existing marriage. The family court must grant this application if the other parent agrees. However, this does not apply if the child, who is already 14 years old, objects.

Furthermore, the local court - family court must transfer sole custody to the parent making the application if it is convinced that the termination of joint custody and the transfer to the parent making the application is in the best interests of the child. If necessary, the court can also transfer only part of the custody to one parent. This can be considered, for example, if there is clearly only a dispute about the right to determine the child's place of residence and the parents are otherwise capable of reaching an agreement.

The local court - family court can withdraw parental custody in whole or in part from one or both custodial parents without a corresponding application if it becomes aware of the child's endangerment (e.g. through a report from the youth welfare office or information from relatives or neighbors). However, the principle of proportionality must be observed here. Such a measure may only be taken if there is a significant risk to the physical, mental or emotional

Modul

Sachverhalt

well-being of the child or their property. If the parents are willing and able to avert the dangers themselves, there must be no intervention in custody. Further judicial powers of intervention include, for example, the ordering of educational assistance, measures against third parties or the substitution of parental declarations (e.g. consent to medical treatment).

You can find more details on parental custody law in the information brochure "Parents and their children" from the Bavarian State Ministry of Justice, which you can download under "Further links".

Erforderliche Unterlagen

Voraussetzungen

Custody disputes are generally decided by the local court - family court in whose district the child has its habitual residence.

However, if a matrimonial matter (e.g. divorce) of the child's parents is pending before the court, the court of the matrimonial matter is also responsible for the custody proceedings.

A lawyer is only compulsory for the first instance if the proceedings are heard as a subsequent matter to the matrimonial matter.

Kosten

Verfahrensablauf

Bearbeitungsdauer

Frist

weiterführende Informationen

<http://www.bestellen.bayern.de/shoplink/04000607.htm>
<http://www.bestellen.bayern.de/shoplink/04000607.htm>

Hinweise

Rechtsbehelf

Complaint

Kurztext

Modul	Sachverhalt
Ansprechpunkt	
Zuständige Stelle	
Formulare	
Ursprungsportal	BayernPortal, BayernPortal