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# Custody order custody

Heruntergeladen am 05.07.2025

<https://fimportal.de/xzufi-services/S1000020010000013160/S100002>

Modul	Sachverhalt
Leistungsschlüssel	99126015089000
Leistungsbezeichnung I	Custody order custody
Leistungsbezeichnung II	Submit custody order to court
Typisierung	2/3 - Bund: Regelung (2 oder 3), Land/Kommune: Vollzug
Quellredaktion	Hamburg
Freigabestatus Katalog	unbestimmter Freigabestatus
Freigabestatus Bibliothek	unbestimmter Freigabestatus
Begriffe im Kontext	<div lang="en-x-mtfrom-de">Making provisions for children in the event of death</div> , <div lang="en-x-mtfrom-de">Providing for children in the event of death</div> , <div lang="en-x-mtfrom-de">Appoint guardian for children</div>
Leistungstyp	
Leistungsgruppierung	
Verrichtungskennung	
SDG-Informationsbereich	

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Lagen Portalverbund	
Einheitlicher Ansprechpartner	Nein
Fachlich freigegeben am	16.05.2024
Fachlich freigegeben durch	
Handlungsgrundlage	<ul style="list-style-type: none"> <li>• §§ 344 - 351 Law on the Procedure in Family Matters and Matters of Voluntary Jurisdiction (FamFG) – special official custody by the probate court</li> <li>• Law on costs of voluntary jurisdiction for courts and notaries (GNotKG)</li> <li>• §§ 1776 - 1782 German Civil Code (BGB) – Parents' right to name children (requirements and procedures)</li> </ul>
Teaser	With a custody order - a so-called last will and testament - parents or single parents can regulate in advance who should represent their minor children after their death.
Volltext	<p>With a custody order, parents or single parents have the opportunity to decide in advance who should represent their minor children as guardian after their death. The appointment of a guardian takes place in the form of a so-called last will and testament, i.e. through a will or inheritance contract. If there is no custody order, the court will decide, but always in the best interests of the child. However, even if there is a custody order, the court will decide whether the named person is suitable as a guardian. However, the court can only deviate from the custody order if there are legitimate doubts about the suitability of the proposed person. With the custody order, you can not only name people and a substitute guardian to represent the child, but you can also explicitly exclude people from guardianship. Before you name a guardian in your custody order, you should talk to them and inform them. Furthermore, children who are 14 years or older can object to the custody order. To ensure that the interests of all parties are protected, you should update the custody order regularly and adapt it to changing circumstances. The custody order can also be combined. In addition to naming a guardian, you can also stipulate specific requirements for the administration of the inherited assets and</p>

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separate the guardianship from the care of the assets and divide them between different people. In order for your custody order to be implemented after death, it is particularly important that it can be found. You have various options for storing the custody order: In addition to storing it with the potential guardian, you can place the custody order in the form of a will in special official custody at the probate court for a fee. After the deposit, the custody order remains in effect until the child named in it reaches the age of majority and the custody order expires. If you want to revoke the custody order, you must notify the probate court and order the termination of the deposit.

## Erforderliche Unterlagen

There are forms and templates for custody orders that can help you with the wording and also help you to better comply with the formalities that are required for a custody order. Please note, however, that the custody order must be made by hand and signed!

## Voraussetzungen

The basic requirement for drafting a custody order is that you, as the person drafting it, have custody and therefore legally have the right to appoint someone. In addition, the named guardian must be of legal age. Since you can only deposit the custody order with the probate court in the form of a will and 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: The legal guardians must write the order themselves in handwriting The legal guardians must sign with their first and last names The custody order must include the place and date NOTE: When drafting a custody order, you can also seek advice from notaries, lawyers, guardianship associations and guardianship authorities.

## Kosten

As with any acceptance of a testamentary disposition into special official custody, a fixed fee of 75 euros is charged.

## Verfahrensablauf

You write a custody order by hand, sign it and discuss it with the named guardian and your child. You take the original custody order and hand it over to the named guardian or bring it to the probate court. A deposit protocol is drawn up at the probate court, which must be signed by the depositor. You will then

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receive a notice of the deposit fee and a deposit receipt. After payment of the fee, your custody order will be deposited in the form of a will with the probate court and can therefore be found safely in the event of your death. NOTE: In addition to the possibility of obtaining advice from a notary, he or she can also take care of depositing the custody order with the probate court for you.

**Bearbeitungsdauer**

Processing will take place promptly after receipt.

**Frist**

After the deposit, the custody order is valid until the child named in it reaches the age of majority and the custody order expires. If you want to revoke the custody order, you must request it back from the named guardian or notify the probate court and order the termination of the deposit. After more than 30 years in official custody, the custodian office will determine ex officio whether the will with the custody order contained therein is still valid and will automatically delete it if only one custody order existed. Please note that children who have reached the age of 14 may oppose the custody order.

**weiterführende Informationen**
**Hinweise**

Please note: The probate court does not provide legal advice. Please contact the persons authorized to provide legal advice. These are lawyers or notaries. The Public Legal Advice Service (ÖRA) offers low-cost legal advice for people with low incomes.

**Rechtsbehelf**

No legal remedy provided

**Kurztext**

Submit custody order to court With a custody order, parents or single parents have the opportunity to decide in advance who should represent their minor children after their death. Must be regulated in the will or inheritance contract The custody order should be agreed upon by all parties involved and updated regularly. It is possible to deposit it with the court so that the order can be found quickly.

**Ansprechpunkt**

If you want to find out exactly who is responsible for your request, please follow the link to

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	Authority finder Hamburg
Zuständige Stelle	Hamburg District Court
Formulare	
Ursprungsportal	Behördenfinder Hamburg, Authority finder Hamburg (Currently this link is only available in german)