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Whereabouts of a child with a caregiver

Heruntergeladen am 05.07.2025

<https://fimportal.de/xzufi-services/393077064/L100008>

Modul	Sachverhalt
Leistungsschlüssel	99013009088000, 99013009088000
Leistungsbezeichnung I	Whereabouts of a child with a caregiver
Leistungsbezeichnung II	Whereabouts of a child with a caregiver
Typisierung	2/3 - Bund: Regelung (2 oder 3), Land/Kommune: Vollzug
Quellredaktion	Sachsen-Anhalt
Freigabestatus Katalog	fachlich freigegeben (gold)
Freigabestatus Bibliothek	fachlich freigegeben (gold)
Begriffe im Kontext	
Leistungstyp	Leistungsobjekt mit Verrichtung
Leistungsgruppierung	Adoption (013)
Verrichtungskennung	Anordnung (088)
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	11.11.2021
Fachlich freigegeben durch	Federal Ministry of Justice and Consumer Protection
Handlungsgrundlage	https://www.gesetze-im-internet.de/bgb/_1632.html https://www.gesetze-im-internet.de/famfg/BJNR25870008.html#BJNR258700008BJNG002600000 https://www.gesetze-im-internet.de/bgb/_1697a.html https://dejure.org/gesetze/SGB_VIII/37.html%20 https://www.gesetze-im-internet.de/bgb/_1632.html https://www.gesetze-im-internet.de/famfg/BJNR25870008.html#BJNR258700008BJNG002600000 https://www.gesetze-im-internet.de/bgb/_1697a.html https://dejure.org/gesetze/SGB_VIII/37.html%20
Teaser	You are a caregiver and the biological parents want to take the child back with them? Then you can apply to the family court for the child to stay with you.
Volltext	<p>Not every child grows up with his biological parents or with a biological parent. Neglect, domestic violence or a serious illness of a parent can be conditions that severely limit the best interests of the child. Under certain conditions, a child can then be placed with a caregiver or a foster family. Often it also comes to family care that parents give their child for an indefinite period of time in the care of relatives, such as the grandparents. As a caregiver, you help to care for the well-being of the child entrusted to you and to strengthen it. If the conditions in the family of origin of your foster child do not improve or otherwise in agreement with the parents, the child can stay with you permanently. If the parents do not (or no longer) agree, you can apply to the family court for a stay order. The family court orders the stay with the caregiver if and as long as the child's well-being would be endangered by the removal from the caregiver.</p> <p>If the conditions for issuing a stay order are</p>

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permanent, the court must also take into account the child's need for continuous and stable living conditions in its decision as part of the child's best interests.

If there is an urgent need for an immediate judicial settlement and a final decision is not yet possible, the court can also decide this as a provisional measure by way of an interim injunction.

Note that the rights of the child's parents have a high priority. Therefore, even during the time when the child is not cared for by them, they are entitled to advice and support as well as promotion of the relationship with their child. The aim is to improve the conditions in the family of origin in such a way that the parents can raise the child themselves again, or at least to promote their relationship with the child and the understanding of the child in such a way that a different life perspective that corresponds to the best interests of the child and is designed for the long term can be developed by mutual agreement. The right and duty of parents to deal with their child also applies if he or she lives with a caregiver.

The basis of the court decision is the so-called "child welfare principle". The decision is therefore not based on the subjective wishes of the parents or caregiver. Rather, it must be ensured that the child is only taken away from the foster family by the parents if this does not cause any harm to the child through a relationship breakdown.

Erforderliche Unterlagen

No documentation is required.

Voraussetzungen

You have taken in a child and would like to apply for the child to remain in your family. For the requested court decision, the following criteria must be met:

- The child has been living in your family for a long time. Whether this is the case is assessed on a case-by-case basis, taking into account, inter alia, the age of the child,
- the parents want to take the child away from you and
- the removal from the foster family by the parents would endanger the well-being of the child.

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If you want the child to remain in your family permanently, the following criteria must also be met for such a court decision:

- The parents have not sustainably improved their educational conditions,
- it is very likely that there will be no improvement in the educational conditions of parents in the future and
- the permanent residence of the child in your family is necessary for his or her best interests.

Please note: The so-called "child welfare principle" is decisive for the assessment of your application. In particular, the age of the child, his relationships and attachments at the time of the decision and his history are taken into account.

Kosten

At the expense of the caregiver, court costs and – for example in the case of legal representation – also out-of-court costs may be incurred. A court costs obligation of the caregiver only occurs if the court imposes the court costs on the caregiver in whole or in part. If the legal requirements are met, you will be granted legal aid upon application.

Verfahrensablauf

- As a caregiver, you apply to the family court for the child to remain in your family.
- The court sends the application to the parents and the Youth Welfare Office for information and comment. Furthermore, it appoints a procedural counsel ("lawyer of the child") for the child, who supports the child in the proceedings and represents his interests.
- The court hears the child in the presence of his or her procedural counsel and gets a personal impression of the child. In addition, the court will hold a discussion meeting in a timely manner. In the appointment, the parents and the caregiver are personally heard and the Youth Welfare Office and the procedural counsel take a position. It will also discuss what assistance may be needed and whether an amicable settlement can be found.
- As far as necessary for the decision, a further investigation of the facts takes place, for example by

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interviewing other persons or by obtaining information or an expert opinion.

- The family court decides by decision on whether the child remains in the foster family.
- Pending the final decision, the court may take a provisional measure – in particular a temporary stay of the child with his or her caregiver – by way of an interim injunction due to an immediate need for judicial regulation.

Bearbeitungsdauer

The processing time depends on the individual case. The judicial discussion date should be held within one month of the initiation of the proceedings at the latest.

Frist

You do not have to observe any deadlines.

weiterführende Informationen
Hinweise
Rechtsbehelf

There is the appeal of the complaint according to §§ 58 ff. FamFG. The appeal period is 1 month, for appeals against interim injunctions 2 weeks.

Kurztext

- Whereabouts of a child with caregiver order
- Caregiver can apply for the child to remain in their foster family if the parents want to remove the child from the foster family
- An order of the court is also possible without an application
- Court examines the conditions
- Whereabouts of the child in the foster family is ordered: if the child has been living in family care for a long time, if the parents want to take the child away from the caregiver and if the child's best interests would be endangered by taking them away from the caregiver
- Whereabouts of the child in the foster family is ordered on a permanent basis, if the parents have not sustainably improved the educational conditions, the improvement of the parenting conditions of the parents is very unlikely to be expected, and the permanent residence of the child with the caregiver is necessary for his or her well-being
- decisive for the court decision is the so-called "child

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	welfare principle". • competent: District Court – Family Court
Ansprechpunkt	Contact the district court (family court).
Zuständige Stelle	
Formulare	Forms: noneOnline procedure possible: noWritten form required: yesPersonal appearance necessary: yes
Ursprungsportal	Verbleib eines Kindes bei einer Pflegeperson, Whereabouts of a child with a caregiver