

99126006061000

Guardian appointment

Heruntergeladen am 09.06.2025

<https://fimportal.de/xzufi-services/S1000020010000013182/S100002>

Modul	Sachverhalt
Leistungsschlüssel	99126006061000
Leistungsbezeichnung I	Guardian appointment
Leistungsbezeichnung II	Appointment of a guardian
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">Child neglected</div>, <div lang="en-x-mtfrom-de">Child without parents</div>, <div lang="en-x-mtfrom-de">Parents do not care for child</div>
Leistungstyp	
Leistungsgruppierung	
Verrichtungskennung	
SDG-Informationsbereich	
Lagen Portalverbund	

Modul	Sachverhalt
Einheitlicher Ansprechpartner	Nein
Fachlich freigegeben am	20.09.2024
Fachlich freigegeben durch	
Handlungsgrundlage	<p>[§§ 1773 ff of the German Civil Code (BGB)](https://www.gesetze-im-internet.de/bgb/_1773.html)</p> <p>[§§ 151 ff Law on Proceedings in Family Matters and in Matters of Voluntary Jurisdiction (FamFG)](https://www.gesetze-im-internet.de/famfg/_151.html)</p>
Teaser	Every minor must have a legal representative. This representation can take place within the framework of a guardianship if the parents are unable, not allowed or do not want to perform this task.
Volltext	<p>The court can establish a guardianship for a minor. If parents do not exercise custody due to legal regulations, the guardianship automatically passes to the youth welfare office. This so-called legal official guardianship comes into effect:</p> <ul style="list-style-type: none"> • for a child whose parents are not married to each other and who is not under parental care at birth because the mother is not yet of legal age. • with consent to adoption if neither parent has parental responsibility anymore. • When a child is born "in confidence." <p>The court also orders guardianship ex officio if neither the mother nor the father is authorized to legally represent the child.</p> <p>Examples:</p> <ul style="list-style-type: none"> • A parent who is unable or unwilling to adequately look after their child's affairs can be deprived of parental custody. If the other parent is also unwilling or unable to take on the child's interests, a guardianship can be established for the child's interests. • If both parents die, the child's legal representation must be arranged. In this case, a guardianship is

Modul

Sachverhalt

established.

- If a child is left in a baby hatch and the parents are unknown, a guardianship must be established.
- Guardianship must also be established for unaccompanied minor refugees.

A guardian is the legal representative of a minor who takes responsibility for them instead of the parents. Children and young people who are under guardianship are called wards. Since 1992, adults in Germany can no longer be declared incapacitated and placed under guardianship. Instead, the court can order care.

A suitable adult, an association or the local youth welfare office can be appointed as guardian. Suitable relatives, foster parents or volunteers can also take on guardianship. If you would like to take on guardianship on a voluntary basis, please contact the youth welfare office first. The youth welfare office will advise you accordingly. The application can then be submitted in writing to the family court.

Those caring for the child or young person in the home may not become guardians. The parents can specify in their last will and testament who the children should go to in the event of their early death. Otherwise, the guardian is appointed by the responsible family court.

The person who has guardianship represents the child in all legal matters. They are as independent as a parent, but are under the supervision of the court. The well-being and interests of the minor must be the primary focus of all decisions. The person who has guardianship must ensure the "care and upbringing", even if there is no shared household. However, they do not have to take on this task personally. Regular personal contact is mandatory. Important decisions must be agreed upon jointly.

The guardian has the right and the duty to look after the person and the assets of the ward, and in particular to represent the ward. For example, he submits applications to authorities, files lawsuits, grants consent for operations and manages the ward's

Modul

Sachverhalt

assets. The guardian also decides where the child lives and which school it attends.

The guardian requires the approval of the family court for numerous legal transactions. He must report regularly to the court and provide evidence of asset management.

A guardianship ends either when the young person reaches the age of majority or when the guardianship is lifted by a court decision.

Erforderliche Unterlagen

Such suggestions are not bound to any particular form. Special documents or evidence are generally not required, but can be helpful.

Voraussetzungen

A guardian is appointed by the court for a minor child,

- if both parents cannot or do not want to adequately care for your child's affairs. In this case, the parents would be deprived of parental custody.
- if both parents with custody die or, if only one parent has custody, if that parent dies.
- when a minor has a child. This does not apply in all cases, for example if the child's acknowledged father is of legal age and the parents have made a declaration of joint parental custody.
- when the parents cannot be identified, for example in the case of a confidential birth or when a newborn is left at a baby hatch.
- when parental custody is suspended, for example in the case of consent to an adoption, incapacity to contract, limited legal capacity or because parental custody cannot be exercised for a longer period of time due to actual obstacles (e.g. illness of the parents).
- after unaccompanied entry and stay of foreign children or young people without a responsible adult.

Kosten

- Court fee for ordering guardianship: depending on the assets of the ward.
- Costs may arise in the course of family court proceedings, and the court will decide on their collection.
- If parties consider legal representation to be

Modul

Sachverhalt

necessary, they must bear the costs of this representation themselves.

Verfahrensablauf

- Any person may request the establishment of a guardianship from the competent court.
 - This can be a parent or any other person who knows that the interests of a minor are not or cannot be represented by the parents.
 - A youth welfare office or another authority can also initiate the establishment if it has the relevant information.
 - The court will decide whether anonymous tips and tips that are obviously unfounded will be processed.
 - The court will check whether the information is correct and, if necessary, take all necessary steps.
 - It is up to the court to decide whether a conversation with the person or body providing the information is necessary.
 - After the death of both parents, the family court first determines whether a guardian was named in a last will and testament (will or inheritance contract). It then checks whether the person named by the parents meets the legal requirements for assuming guardianship.
 - If no guardian is named or the named person does not meet the necessary requirements, the family court will look for other suitable people. The family court will first consider the child's relatives.
 - During the proceedings, the court hears the family's relatives and close friends. The youth welfare office and the child can also make a statement.
 - The court then selects a suitable person, orders guardianship and appoints the person as guardian.
 - The court shall issue a certificate of appointment to all guardians it has appointed.
 - The voluntary guardian, i.e. a natural person who does not exercise guardianship professionally, is verbally obliged as soon as he or she is appointed, informed of his or her duties and informed of advice and support services. This does not apply to voluntary guardians who exercise or have exercised more than one guardianship in the last two years.

Bearbeitungsdauer

How long the processing takes from the time the court is informed to its decision depends on the individual

Modul	Sachverhalt
	case.
Frist	The process for guardianship or custody is initiated by an application or ex officio. The deadlines and dates of the family court proceedings must then be observed.
weiterführende Informationen	https://www.hamburg.de/politik-und-verwaltung/behoerden/sozialbehoerde/einrichtungen/oera https://www.hamburg.de/politik-und-verwaltung/behoerden/sozialbehoerde/einrichtungen/oera https://kinderschutzbund-hamburg.de/projects-archive/vormundschaften/ https://kinderschutzbund-hamburg.de/projects-archive/vormundschaften/
Hinweise	<p>**Legal advice is not available at the district court. Please contact the persons authorized to provide legal advice. These are lawyers or notaries.</p> <p>Affordable legal advice for people with low incomes is provided by the [](https://www.hamburg.de/oera/) Public Legal Advice (ÖRA).**</p>
Rechtsbehelf	<p>Since this is not a benefit that requires an application, the person making the suggestion is generally not entitled to legal recourse if their suggestion is not taken into account.</p> <p>The child and the youth welfare office have legal options to object to the establishment of guardianship.</p> <p>Depending on the specific case, other persons may be entitled to appeal.</p>
Kurztext	<ul style="list-style-type: none"> • establishment of guardianship • Guardianship can only be established for minors. <p>The court can order care for adults.</p> <ul style="list-style-type: none"> • The family court appoints a guardian if • Minors are not under parental care. • neither parent is authorized to legally represent the child. • the marital status of a minor child cannot be determined. • Any suitable adult can become a guardian. • An association or the local youth welfare office can also be appointed. • Relatives, foster parents or volunteers can also take on guardianship.

Modul

Sachverhalt

- Carers of the child or young person in the home may not become guardians.
- The parents can determine who should become guardian through their last will and testament.
- Guardian assumes responsibility for the child instead of the parents and must
 - care for the person and property of the ward
 - represent the ward
 - if necessary, submit applications to authorities
 - if necessary, take legal action
 - if necessary, give consent for surgery
 - manage the child's assets
 - decide where the child lives
 - decide which school the child attends
 - report regularly to the court and provide evidence of asset management.
- The guardian requires the approval of the family court for numerous legal transactions.
- A guardianship ends when the child reaches the age of majority or when the guardianship is revoked by a court decision.

Ansprechpunkt

If you want to find out exactly who is responsible for your request, please follow the link to [Hamburg Service](<https://www.hamburg.de/service/info/hasi/13182>)

Zuständige Stelle

Hamburg District Court

Formulare

Ursprungsportal

Hamburg Service, Hamburg Service (Currently this link is only available in german)