

99046008017002

# Legal aid approval as an advance

Heruntergeladen am 29.06.2025

<https://fimportal.de/xzufi-services/S1000020010000013257/S100002>

Modul	Sachverhalt
Leistungsschlüssel	99046008017002
Leistungsbezeichnung I	Legal aid approval as an advance
Leistungsbezeichnung II	Get an advance on legal costs from your spouse or life partner for a legal dispute
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">money for the trial from the spouse</div>, <div lang="en-x-mtfrom-de">Financing the process through spouses</div>
Leistungstyp	
Leistungsgruppierung	
Verrichtungskennung	
SDG-Informationsbereich	
Lagen Portalverbund	

Modul	Sachverhalt
Einheitlicher Ansprechpartner	Nein
Fachlich freigegeben am	25.09.2024
Fachlich freigegeben durch	
Handlungsgrundlage	§ 1360 a Paragraph 4 of the German Civil Code (BGB) (Scope of the maintenance obligation) § 1361 para. 4 of the German Civil Code (BGB) (maintenance for separated couples) § 5 Law on Registered Life Partnerships - LpartG - (Special provisions for interim measures) §§ 114 to 127 of the Code of Civil Procedure (ZPO) – Legal aid and advance payment of legal costs § 231 ff. Law on Proceedings in Family Matters and in Matters of Voluntary Jurisdiction (FamFG) – Proceedings in Maintenance Matters
Teaser	If you are unable to finance a necessary legal dispute yourself, your spouse or life partner may be required to provide you with an advance on legal costs, provided this is equitable.
Volltext	If you are unable to finance a necessary legal dispute yourself, your spouse or life partner may be required to provide you with an advance on legal costs, provided this is equitable. A typical situation as an example: day after day the same argument between two spouses, they decide to get a divorce. Because of the children, one partner works part-time and does not have the money to go to court. The other partner, on the other hand, has a fairly good income. In such cases, family law provides for a claim to advance payment of legal costs. This follows from the duty of solidarity in marriage and is therefore ultimately part of the maintenance obligation. The regulations also apply accordingly to registered civil partnerships. The spouse entitled to maintenance can request an advance payment for disputes between themselves, for example for a divorce, as well as for certain disputes with a third party. A lawyer will inform you of the details. If the claim for advance payment of costs can be enforced promptly, it takes priority over support from the state treasury (legal aid). Note: Children are also entitled to an advance on legal costs

Modul	Sachverhalt
	<p>from their parents (including the parent who is responsible for their child) or their grandparents. Please consult a lawyer for details in your individual case.</p>
Erforderliche Unterlagen	<p>Your lawyer will advise you on which documents and evidence must be attached to the application for an interim injunction in each individual case.</p>
Voraussetzungen	<p>The marriage or registered civil partnership must exist. It must be a legal dispute concerning a personal matter (for example, a family matter). The granting of a claim for advance payment of legal costs must be equitable, taking into account the overall financial circumstances. The conflict must have its roots in the community. This may include, for example, proceedings before a criminal court or an employment court, but not disputes arising from previous marriages or inheritance claims. The intended legal action must not be without prospect of success. The prospect of success is the most important criterion for whether you are entitled to advance payment of legal costs. The court makes a prognosis, but this does not contain any excessive requirements. the intended legal action must not be malicious. For example, the right to advance payment of legal costs is excluded if you are seeking maintenance even though your spouse is paying maintenance on time and appropriately. the beneficiary must be in need You are considered to be in need if you are unable to cover the costs of litigation yourself, or only partially. The need requirements for advance payment of legal costs are lower than those for state legal aid, but you usually have to rely on your own assets first. the obligor must be capable The spouse or partner who is obliged to pay is entitled to an appropriate personal allowance, which must not be jeopardized. The same applies to priority maintenance claims of minor children. The assets of the person obliged to pay usually remain untouched. Depending on how capable the person obliged to pay is, there may only be a partial claim to advance payment of legal costs. If he or she is unable to meet the claim in full, the court can also allow payment in installments.</p>
Kosten	<p>In the case of independent legal proceedings, court</p>

Modul	Sachverhalt
	and legal fees of varying amounts are incurred depending on the value in dispute.
Verfahrensablauf	<p>If you find that you cannot afford the legal costs, please contact a lawyer you trust in good time to find out whether you are entitled to an advance payment or assistance with legal costs. The maintenance payments of your spouse or life partner always take priority. If you want to claim a subsidy, you can do so by filing an application for an interim injunction. Your lawyer will usually take on this task. Whether the advance on legal costs has to be repaid after the proceedings have been concluded depends on the individual case. It may later turn out that the advance was not justified or that the conditions for a claim no longer exist. For example, as an applicant, you could be in a much better position after the divorce as a result of the property settlement than before. In that case, you would have to expect to pay back the money. The fact that a case was lost is usually not enough to demand reimbursement.</p>
Bearbeitungsdauer	Immediately.
Frist	No.
weiterführende Informationen	<p> <a href="https://justiz.hamburg.de/gerichte/gerichte-642690">https://justiz.hamburg.de/gerichte/gerichte-642690</a>  <a href="https://www.hamburg.de/justiz/">https://www.hamburg.de/justiz/</a>  <a href="https://www.hamburg.de/politik-und-verwaltung/behoerden/sozialbehoerde/einrichtungen/oera">https://www.hamburg.de/politik-und-verwaltung/behoerden/sozialbehoerde/einrichtungen/oera</a>  <a href="https://www.hamburg.de/politik-und-verwaltung/behoerden/sozialbehoerde/einrichtungen/oera">https://www.hamburg.de/politik-und-verwaltung/behoerden/sozialbehoerde/einrichtungen/oera</a>  <a href="https://justiz.de/service/formular/dateien/zp1a.pdf">https://justiz.de/service/formular/dateien/zp1a.pdf</a>  <a href="https://justiz.hamburg.de/contentblob/13936496/213f9694510275a3bd922697f2fb34aa/data/pkh-vordruck.pdf">https://justiz.hamburg.de/contentblob/13936496/213f9694510275a3bd922697f2fb34aa/data/pkh-vordruck.pdf</a>  <a href="https://www.bmj.de/SharedDocs/Downloads/DE/Formular/Formular_Hinweisblatt_Prozess_Verfahrenskostenhilfe.pdf?__blob=publicationFile&amp;v=7">https://www.bmj.de/SharedDocs/Downloads/DE/Formular/Formular_Hinweisblatt_Prozess_Verfahrenskostenhilfe.pdf?__blob=publicationFile&amp;v=7</a>  <a href="https://justiz.hamburg.de/contentblob/13936494/e983fc8d4894ddc586db0bb7f7da3e26/data/pkh-hinweisblatt.pdf">https://justiz.hamburg.de/contentblob/13936494/e983fc8d4894ddc586db0bb7f7da3e26/data/pkh-hinweisblatt.pdf</a> </p>
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. The Public Legal Advice Service (ÖRA) offers low-cost legal advice for people</p>

Modul	Sachverhalt
	with low incomes.
Rechtsbehelf	If your application is (partially) rejected, you can file an immediate appeal.
Kurztext	A spouse or life partner may be obliged to grant the partner an advance on legal costs if You are unable to finance a necessary legal dispute yourself this is fair Consequences of the duty of solidarity in marriage part of the maintenance obligation The same regulation also applies to registered civil partnerships. Can be requested from the spouse entitled to maintenance in the following cases: Disputes among themselves, e.g. for divorce, certain disputes with a third party. Does it take precedence over support from the state treasury (legal aid)? Children are also entitled to an advance on legal costs their parents towards the caring parent towards their grandparents.
Ansprechpunkt	If you want to find out exactly who is responsible for your request, please follow the link to  Hamburg Service
Zuständige Stelle	Hamburg District Court
Formulare	
Ursprungsportal	Hamburg Service, Hamburg Service (Currently this link is only available in german)