

## Remaining of a child with a caregiver

You are a foster carer and the natural parents want to take the child back with them? Then you can apply to the family court for the child to stay with you.

### Competent Department

- [Amtsgericht Bremen](#)
- [Amtsgericht Bremen-Blumenthal](#)
- [Amtsgericht Bremerhaven](#)

### Basic information

Not every child grows up with his or her birth parents or with a birth parent. Neglect, domestic violence or a serious illness of a parent can be conditions that severely limit the child's well-being. Under certain circumstances, a child may then be placed with a foster parent or foster family. Often, family foster care also occurs as a result of parents placing their child in the care of relatives, such as grandparents, for an indefinite period of time.

As a foster caregiver, you help to provide for and strengthen the well-being of the child entrusted to your care. 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 also stay with you permanently. If the parents do not (or no longer) agree to this, you can apply to the family court for an order for the child to remain with you. The family court orders the child to remain with the caregiver if and as long as the child's well-being would be endangered by being taken away from the caregiver.

If the conditions for issuing a permanent order to remain are met, the court must also consider 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 court order and a final decision is not yet possible, the court may also decide this as a provisional measure by way of a temporary order.

Note that the rights of the child's parents are of great importance. Therefore, even during the time when the child is not in their care, they have a right to counseling and support, as well as to foster their 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 their understanding of the child in such a way that another perspective on life can be developed by mutual agreement which is in the best interests of the child and is designed to last. Insofar as contact is in the best interests of the child, the parents' right and duty to contact their child also applies if the child lives with a foster carer.

The basis of the court's decision is the so-called "principle of the best interests of the child". This means that the decision is 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 harm the child by breaking off the relationship.

## **Requirements**

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

- The child must have been living in your family for a long time. Whether this is the case will be assessed on a case-by-case basis, taking into account the age of the child, among other things,
- the parents want to take the child away from you, and
- taking the child away from the foster family by the parents would endanger the child's well-being.

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 parenting situation,
- it is very unlikely that there will be any improvement in the parenting situation in the future, and
- the child's permanent stay in your family is necessary for his or her well-being.

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

## **What documents do I need?**

- As a rule, no documentation is required.

## **Procedure**

- As a foster carer, 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 their information and comments. It also appoints a guardian ad litem for the child ("the child's lawyer"), who supports the child in the proceedings and represents its interests.
- The court hears the child in the presence of his counsel and obtains a personal impression of the child. In addition, the court holds a hearing in a timely manner. At

this hearing, the parents and the caregiver are heard in person, and the youth welfare office and the guardian ad litem make their statements. It is also discussed what assistance may be necessary and whether an amicable arrangement can be found.

- If necessary for the decision, the facts of the case are investigated further, for example by questioning other persons or by obtaining information or an expert opinion.
- The family court decides by resolution whether the child is to remain in the foster family.
- Pending the final decision, the court may, on the basis of an immediate need for judicial regulation, take a provisional measure - in particular a provisional stay of the child with its foster carer - by way of a temporary injunction.

## **Legal bases**

- [§ 1697a Absatz 2 Bürgerliches Gesetzbuch \(BGB\) – Kindeswohlprinzip](#)
- [§ 37 Aches Buch Sozialgesetzbuch – Kinder- und Jugendhilfegesetz – Beratung und Unterstützung der Eltern, Zusammenarbeit bei Hilfen außerhalb der eigenen Familie](#)
- [§ 1632 Abs. 4 Bürgerliches Gesetzbuch \(BGB\)](#)
- [§§ 151 ff. Gesetz über das Verfahren in Familiensachen und in den Angelegenheiten der freiwilligen Gerichtsbarkeit \(FamFG\)](#)

## **More information**

At <https://www.justizadressen.nrw.de/de/justiz/suche> you will find the local court responsible for your area with further contact information and service times.

## **What deadlines must be paid attention to?**

You do not have to observe any deadlines.

## **How long does it take to process**

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

## **What are the costs?**

The caregiver may incur court costs and - in the case of legal representation, for example - extrajudicial costs. The caregiver is only obliged to pay court costs if the court orders the caregiver to pay the court costs in full or in part. If the legal requirements are met, you will be granted legal aid upon application.