

Application for surrender of the child by way of temporary injunction (summary proceedings)

Personal custody includes the right to demand the child's surrender from anyone who withholds the child from the parents or a parent.

Competent Department

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

Basic information

Personal custody includes the right to demand the return of the child from anyone who withholds it from the parents or one of the parents. This right can be asserted before the family court. If there is an urgent need, this can be done in proceedings for a temporary injunction.

Requirements

- The persons entitled to file an application are those who have the right to determine the child's residence.

What documents do I need?

- Documents serving to substantiate the alleged facts
e.g. a sworn affidavit

Procedure

The application for a temporary order to surrender the child is filed with the competent district court - family court.

- You must justify the application and substantiate the conditions for the order, e.g. by submitting an affidavit on the alleged facts.
- It is initially at the discretion of the local court, in this case: the family court, whether it decides on the application for a temporary injunction after prior oral proceedings or in written proceedings without an oral hearing. In most cases, the opposing party is also given the opportunity to make a statement before a decision is made.

- The court must hear the parents and the youth welfare office and in most cases also the child. This hearing can only be waived for serious reasons. This not only serves the right of the parties concerned, but also enables the court to gain a personal impression of the parties involved.
- If the decision has been made without an oral hearing, an application can then be regularly made for a new decision to be made on the basis of an oral hearing before the family court.
- If the respondent does not comply with the request, the court can order coercive measures to hand over the child to the responsible bailiff. This may go as far as a search of the home and the assistance of the police.

Légal bases

- [§ 1632 Bürgerliches Gesetzbuch \(BGB\)](#)
- [§ 1666 Bürgerliches Gesetzbuch \(BGB\)](#)
- [§§ 49 ff. Gesetz über das Verfahren in Familiensachen und in den Angelegenheiten der freiwilligen Gerichtsbarkeit \(FamFG\)](#)
- [§§ 151 ff. Gesetz über das Verfahren in Familiensachen und in den Angelegenheiten der freiwilligen Gerichtsbarkeit \(FamFG\) – Kindschaftssachen](#)

What deadlines must be paid attention to?

None

How long does it take to process

Depends on the individual case.

Note: Applications for a temporary injunction are treated as summary proceedings before the court on an expedited basis.

What are the costs?

- Court costs
- If applicable, costs for the appointed lawyer.