

retention of a child

If you are a foster parent for a foster child, you have the right under Civil Code section 1632(4) to apply to the family court for the foster child to remain in the foster family.

Competent Department

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Basic information

If the conditions in a foster child's family of origin do not improve within a reasonable period of time according to the assessment of the youth welfare office, the child will be placed in a foster family permanently. If the natural parents do not agree with this decision, the family court can order the child to remain in the foster family.

Requirements

In order for an application to be made to the family court for a foster child to remain in the foster family, there must be an effective request for surrender by the child's parents or by someone who has the right to determine the child's whereabouts. In order for a stay order to be issued, the court continues to consider the following requirements pursuant to Civil Code section 1632(4):

- Has the child been living in family care "for a longer period of time" - the criterion "longer period of time" is an indeterminate legal term that is not applied equally to every family. The assessment is based on individual circumstances and the age of the child.
- Is the physical, mental or emotional well-being of the child endangered by the removal?

Procedure

- Foster carers must apply to the family court for the child to remain in the foster family. The family court in whose district the child's center of life is located is responsible.

- The court must also take action ex officio, so that the youth welfare office can also file a corresponding application.
- Pending the conclusion of the proceedings, the court can issue a temporary order according to which the foster child remains with the foster family until a decision is reached.
- Foster children 14 years of age and older must always be heard by the court in proceedings concerning the care of persons or property. A child under 14 years of age shall be heard if his or her inclinations, attachments or will are of importance to the decision or if it appears necessary to establish the facts of the case.
- The court's decision is in any case based on the "best interests of the child" principle.

Legal bases

- [§ 1632 Bürgerliches Gesetzbuch \(BGB\)](#)

More information

In addition to requesting that the child remain in foster care, an emergency request for "issuance of a temporary order of retention" may also be filed.