**German Civil Code**

**Title 5
Parental custody**

[table of contents](http://www.gesetze-im-internet.de/englisch_bgb/index.html#gl_p5703)

**Section 1626
Parental custody, principles**

(1)The parents have the duty and the right to care for the minor child (parental custody). The parental custody includes the care for the person of the child (care for the person of the child) and the property of the child (care for the property of the child).

(2)In the care and upbringing of the child, the parents take account of the growing ability and the growing need of the child for independent responsible action. They discuss questions of parental custody with the child to the extent that, in accordance with the stage of development of the child, it is advisable, and they seek agreement.

(3)The best interests of the child as a general rule include contact with both parents. The same applies to contact with other persons to whom the child has ties, if maintaining these ties is beneficial for its development.

[table of contents](http://www.gesetze-im-internet.de/englisch_bgb/index.html#gl_p5707)

**Section 1626a
Parental custody of parents who are not married to one another; declarations of parental custody**

(1)Where the parents, at the date of the birth of the child, are not married to one another, they have joint parental custody

1.  if they declare that they wish to take on parental custody jointly (declarations of parental custody),

2.  if they marry one another, or

3.  if the family court transfers joint parental custody to them.

(2) On application by a parent, the family court is to transfer parental custody or a part of parental custody to both parents jointly in accordance with subsection (1) no. 3 if the transfer is not inconsistent with the best interests of the child. If the other parent fails to submit any reasons which might be inconsistent with the transfer of joint parental custody, and if no such reasons are otherwise manifest, it is to be presumed that joint parental custody is not inconsistent with the best interests of the child.

(3)Apart from this, the mother has parental custody.

[table of contents](http://www.gesetze-im-internet.de/englisch_bgb/index.html#gl_p5714)

**Section 1626b
Special requirements for the effectiveness of the declaration of parental custody**

(1)A declaration of parental custody subject to a condition or a stipulation as to time is ineffective.

(2)The declaration of parental custody may be made even before the birth of the child.

(3)A declaration of parental custody is ineffective to the extent that a court decision on parental custody under section 1626a (1) no. 3 or section 1671 has been made or such a decision has been altered under section 1696 (1) sentence 1.

[table of contents](http://www.gesetze-im-internet.de/englisch_bgb/index.html#gl_p5718)

**Section 1626c
Declaring in person; parent with limited capacity to contract**

(1)The parents may make the declarations of parental custody only without a representative.

(2)The declaration of parental custody of a parent with limited capacity to contract is subject to the approval of his legal representative. The approval may only be given by the legal representative without a representative; section 1626b (1) and (2) applies with the necessary modifications. The family court must substitute the approval on the application of the parent with limited capacity to contract if the declaration of parental custody does not conflict with the welfare of this parent.

[table of contents](http://www.gesetze-im-internet.de/englisch_bgb/index.html#gl_p5721)

**Section 1626d
Form; duty of notification**

(1)Declarations of parental custody and approvals must be notarially recorded.

(2)The reporting agency without undue delay notifies the making of declarations of parental custody and approvals, stating the date of birth and place of birth of the child and the name that the child had at the time when its birth was recorded to the youth welfare office competent under section 87c (6) sentence 2 of Book Eight of the Social Security Code [Sozialgesetzbuch] for the purposes designated in section 58a of Book Eight of the Social Security Code [Sozialgesetzbuch].

[table of contents](http://www.gesetze-im-internet.de/englisch_bgb/index.html#gl_p5724)

**Section 1626e
Ineffectiveness**

Declarations of parental custody are ineffective only if they do not satisfy the requirements of the above provisions.

[table of contents](http://www.gesetze-im-internet.de/englisch_bgb/index.html#gl_p5726)

**Section 1627
Exercise of parental custody**

The parents must exercise the parental custody on their own responsibility and in mutual agreement for the best interests of the child. In the case of differences of opinion, they must attempt to agree.

[table of contents](http://www.gesetze-im-internet.de/englisch_bgb/index.html#gl_p5728)

**Section 1628
Court decision in the case of differences of opinion between the parents**

If the parents, in a single matter or in a particular kind of matter of parental custody the arrangements for which are of substantial importance for the child, cannot agree, the family court, on the application of a parent, may transfer the decision to one parent. The transfer may be subject to limitations or conditions.

[table of contents](http://www.gesetze-im-internet.de/englisch_bgb/index.html#gl_p5730)

**Section 1629
Representation of the child**

(1)Parental custody includes the representation of the child. The parents represent the child jointly; where a declaration of intention is to be made to the child, it is sufficient if it is made to one parent. One parent represents the child alone, to the extent that he exercises parental custody alone or the decision has been transferred to him under section 1628. In the case of imminent danger, each parent is entitled to undertake all legal act that are necessary for the best interests of the child; the other parent is to be informed without undue delay.

(2)The father and the mother may not represent the child to the extent that under section 1795 a guardian is excluded from the representation of the child. If the parental custody for a child is held by the parents jointly, then the parent in whose charge the child is may assert maintenance claims of the child against the other parent. The family court may deprive the father and the mother under section 1796 of the representation; this does not apply to the determination of paternity.

(2a)The father and the mother may not represent the child in court proceedings under section 1598a (2).

(3)If the parents of the child are married to each other, then one parent, as long as the parents live apart or a matrimonial matter is pending at court between them, may assert maintenance claims of the child against the other parent only in his own name. A court decision obtained by one parent and a court settlement entered into between the parents also take effect for and against the child.

[table of contents](http://www.gesetze-im-internet.de/englisch_bgb/index.html#gl_p5735)

**Section 1629a
Restriction of liability of minors**

(1)The liability for obligations that the parents, as part of their statutory power of agency, or other persons entitled to represent, as part of their power of agency, have created with effect for the child by legal transaction or another action, or that have arisen on the basis of an acquisition as a result of death that occurred during the minority, is restricted to the inventory of the assets of the child that are in existence when the child reaches the age of majority; the same applies to obligations arising from legal transactions that the minor under sections 107 and 108 or section 111 entered into with the approval of his parents or for obligations arising from legal transactions for which the parents received the approval of the family court. If the minor who is now of full age relies on the restriction of liability, the provisions of sections 1990 and 1991 for the liability of the heir apply with the necessary modifications.

(2)Subsection (1) does not apply to obligations from the independent operation of a trade or business to the extent that the minor was entitled to do this under section 112, and for obligations from legal transactions that served solely the satisfaction of his personal needs.

(3)The rights of the creditors against co-debtors and those who are jointly liable and their rights arising from a security created for the claim or from a priority notice securing its creation are not affected by subsection (1).

(4)If a member of a community of heirs or an association of persons does not within three months after the minor reaches full age demand the partitioning of the estate or the termination of the association, then in case of doubt it is to be assumed that the obligation arising from such a relationship arose after the minor reached full age; similar provisions apply to the proprietor of a trading business who has reached full age and who does not terminate this within three months after reaching full age. Under the preconditions set out in sentence 1, it is also presumed that the present assets of the person who has reached full age were already in existence when he reached full age.

[table of contents](http://www.gesetze-im-internet.de/englisch_bgb/index.html#gl_p5740)

**Section 1630
Parental custody in the case of appointment of a curator or of foster care**

(1)The parental custody does not extend to matters of the child for which a curator has been appointed.

(2)Where the care for the person of the child or the care for the property of the child is the responsibility of a curator, then the family court decides, if the parents and the curator cannot agree in a matter that relates to both the person and the property of the child.

(3)If the parents place the child in foster care for a long period of time, the family court, on the application of the parents or of the foster carer, may transfer matters of parental custody to the foster carer. For the transfer on the application of the foster carer, the approval of the parents is required. In the scope of the transfer, the foster carer has the rights and duties of a curator.

[table of contents](http://www.gesetze-im-internet.de/englisch_bgb/index.html#gl_p5744)

**Section 1631
Contents and limits of care for the person of the child**

(1)The care for the person of the child includes without limitation the duty and the right to care for, bring up and supervise the child and to specify its abode.

(2)Children have a right to non-violent upbringing. Physical punishments, psychological injuries and other degrading measures are inadmissible.

(3)The family court is to support the parents, on application, in exercising care for the person of the child in suitable cases.

[table of contents](http://www.gesetze-im-internet.de/englisch_bgb/index.html#gl_p5748)

**Section 1631a
Training and occupation**

In matters of training and of occupation, the parents take account in particular of the aptitude and inclination of the child. If there are doubts, the advice of a teacher or of another suitable person should be obtained.

[table of contents](http://www.gesetze-im-internet.de/englisch_bgb/index.html#gl_p5750)

**Section 1631b
Accommodation associated with deprivation of liberty**

Accommodation for the child that is associated with deprivation of liberty requires the approval of the family court. Accommodation is permissible if it is necessary in the child’s best interests, in particular in order to avert a danger to the child himself or to a third-party and the danger cannot be remedied by other means, including via other public assistance. Without approval, accommodation is only permissible if delay entails risk; the approval must thereafter be obtained without undue delay.

[table of contents](http://www.gesetze-im-internet.de/englisch_bgb/index.html#gl_p5752)

**Section 1631c
Prohibition of sterilisation**

The parents may not consent to a sterilisation of the child. Nor can the child itself consent to the sterilisation. Section 1909 does not apply.

Section 1631d    Circumcision of the male child

(1) The care for the person of the child includes the right to give consent to the medically unnecessary circumcision of a male child who is not capable of reasoning and forming a judgment, if this is to be carried out in accordance with the rules of medical practice. This does not apply if the circumcision, even considering its purpose, jeopardises the best interests of the child.

(2) In the first six months after the child is born, circumcision may also be performed pursuant to subsection (1) by persons designated by a religious group to perform this procedure if these persons are specially trained to do so and, without being a physician, are comparably qualified to perform circumcisions.

[table of contents](http://www.gesetze-im-internet.de/englisch_bgb/index.html#gl_p5757)

**Section 1632
Surrender of the child; determination of contact; order that child remains in foster care**

(1)The care for the person of the child includes the right to require surrender of the child from every person who is unlawfully withholding it from the parents or from one parent.

(2)The care for the person of the child also includes the right to determine contact for the child, even with effect for and against third parties.

(3)Disputes that relate to a matter under subsection (1) or (2) are decided by the family court on the application of a parent.

(4)Where the child has lived in foster care for a long period of time, and where the parents want to remove the child from the foster carer, the family court may, of its own motion or on the application of the foster carer, order that the child remains with the foster carer, if and as long as the best interests of the child would be endangered by the removal.

[table of contents](http://www.gesetze-im-internet.de/englisch_bgb/index.html#gl_p5762)

**Section 1633
Care for the person of the child in the case of a married minor**

The care for the person of a minor child that is or was married is restricted to representation in the personal matters.

[table of contents](http://www.gesetze-im-internet.de/englisch_bgb/index.html#gl_p5764)

**Sections 1634 - 1637
(repealed)**

[table of contents](http://www.gesetze-im-internet.de/englisch_bgb/index.html#gl_p5765)

**Section 1638
Restriction of care for the property of the child**

(1)The care for the property of the child does not extend to the property which the child acquires as a result of death or which is given it free of charge inter vivos if the testator by testamentary disposition or the donor when making the disposition stipulated that the parents were not to manage the property.

(2)The parents may also not manage whatever the child acquires on the basis of a right that is part of such property or as compensation for the destruction, damage or deprivation of an object that is part of the property or by a legal transaction that relates to the property.

(3)If it is stipulated by testamentary disposition or when the disposition is made that one parent shall not manage the property, the other parent manages it. In this respect, this parent represents the child.

[table of contents](http://www.gesetze-im-internet.de/englisch_bgb/index.html#gl_p5769)

**Section 1639
Directions of the testator or donor**

(1)Whatever the child acquires as a result of death or whatever it is given free of charge inter vivos the parents must manage under the directions that were made by testamentary disposition or when the disposition was made.

(2)The parents may deviate from the directions to the extent that, under section 1803 (2) and (3), this is permitted to a guardian.

[table of contents](http://www.gesetze-im-internet.de/englisch_bgb/index.html#gl_p5772)

**Section 1640
Inventory of property**

(1)The parents must make an inventory of the property subject to their management which the child acquires as a result of death, affix to the inventory an affirmation that it is correct and complete and submit the inventory to the family court. The same applies to property which the child obtains in another way on the occasion of a death, and to lump sum payments that are made instead of maintenance, and gratuitous dispositions. In the case of household objects, a statement of the total value is sufficient.

(2)Subsection (1) does not apply

1.  if the value of an acquisition of property does not exceed 15,000 euros or

2.  to the extent that the testator by testamentary disposition or the donor when making the disposition made a direction to the contrary.

(3)If the parents, contrary to subsection (1) or (2), do not submit an inventory, or if the inventory submitted is inadequate, the family court may order that the inventory is recorded by a competent authority or a competent official or notary.

[table of contents](http://www.gesetze-im-internet.de/englisch_bgb/index.html#gl_p5778)

**Section 1641
Prohibition of donation**

The parents may not, in representation of the child, make donations. An exception applies to donations that are made to comply with a moral duty or to show consideration to decency.

[table of contents](http://www.gesetze-im-internet.de/englisch_bgb/index.html#gl_p5780)

**Section 1642
Investment of money**

The parents must invest the money of the child subject to their management in accordance with the principles of efficient management of assets to the extent that it is not to be kept ready to pay expenses.

[table of contents](http://www.gesetze-im-internet.de/englisch_bgb/index.html#gl_p5782)

**Section 1643
Legal transactions subject to approval**

(1)For legal transactions for the child, the parents need the approval of the family court in the cases in which under section 1821 and under section 1822 nos. 1, 3, 5 and 8 to 11 a guardian needs approval.

(2)The same applies to the disclaimer of an inheritance or of a legacy and for the waiver of a compulsory portion. Where the devolution on the child occurs only as the result of the disclaimer of a parent who represents the child alone or jointly with the other parent, the approval is necessary only if the parent was entitled together with the child.

(3)The provisions of sections 1825 and 1828 to 1831 apply with the necessary modifications.

[table of contents](http://www.gesetze-im-internet.de/englisch_bgb/index.html#gl_p5786)

**Section 1644
Surrender of objects of property to the child**

The parents may not, without the approval of the family court, surrender to the child, to perform a contract entered into by the child or for its free disposition, objects that they may alienate only with the approval of the family court.

[table of contents](http://www.gesetze-im-internet.de/englisch_bgb/index.html#gl_p5788)

**Section 1645
New trade or business**

The parents should not, without the approval of the family court, commence a new trade or business in the name of the child.

[table of contents](http://www.gesetze-im-internet.de/englisch_bgb/index.html#gl_p5790)

**Section 1646
Acquisition with funds of the child**

(1)If the parents acquire movable things with the funds of the child, then on the acquisition the ownership passes to the child, unless the parents do not intend to acquire for the account of the child. This applies in particular also to bearer instruments and to instruments made out to order which bear a blank endorsement.

(2)The provisions of subsection (1) apply with the necessary modifications if the parents, with the funds of the child, acquire a right in property of the nature designated or another right for the transfer of which the contract of assignment suffices.

[table of contents](http://www.gesetze-im-internet.de/englisch_bgb/index.html#gl_p5793)

**Section 1647
(repealed)**

[table of contents](http://www.gesetze-im-internet.de/englisch_bgb/index.html#gl_p5794)

**Section 1648
Reimbursement of outlays**

If the parents, in exercising the care for the person of the child or the care for the property of the child, make outlays which in the circumstances they are permitted to regard as necessary, then they may demand reimbursement from the child except to the extent that the outlays are not borne by themselves.

[table of contents](http://www.gesetze-im-internet.de/englisch_bgb/index.html#gl_p5796)

**Section 1649
Use of the income of the property of the child**

(1)The income of the property of the child that is not needed for the proper management of the property is to be used for the maintenance of the child. To the extent that the income of the property is not sufficient, the income may be used which the child acquires as a result of its work or as a result of the independent operation of a trade or business permitted him under section 112.

(2)The parents may use the income of the property which is not needed for the proper management of the property and for the maintenance of the child for their own maintenance and for the maintenance of the minor unmarried siblings of the child, to the extent that this is equitable, taking into account the property and earnings situation of the persons involved. This power lapses on the marriage of the child.

[table of contents](http://www.gesetze-im-internet.de/englisch_bgb/index.html#gl_p5799)

**Sections 1650 - 1663
(repealed)**

[table of contents](http://www.gesetze-im-internet.de/englisch_bgb/index.html#gl_p5800)

**Section 1664
Limited liability of the parents**

(1)In exercising the parental custody, the parents are answerable to the child only for the care they customarily exercise in their own affairs.

(2)If both parents are responsible for damage, they are liable as joint and several debtors.

[table of contents](http://www.gesetze-im-internet.de/englisch_bgb/index.html#gl_p5803)

**Section 1665
(repealed)**

[table of contents](http://www.gesetze-im-internet.de/englisch_bgb/index.html#gl_p5804)

**Section 1666
Court measures in the case of endangerment of the best interests of the child**

(1)Where the physical, mental or psychological best interests of the child or its property are endangered and the parents do not wish or are not able to avert the danger, the family court must take the measures necessary to avert the danger.

(2)In general it is to be presumed that the property of the child is endangered if the person with care for the property of the child violates his maintenance obligation towards the child or his duties connected with the care for the property of the child or fails to comply with orders of the court that relate to the care for the property of the child.

(3)The court measures in accordance with subsection (1) include in particular

1.  instructions to seek public assistance, such as benefits of child and youth welfare and healthcare,

2.  instructions to ensure that the obligation to attend school is complied with,

3.  prohibitions to use the family home or another dwelling temporarily or for an indefinite period, to be within a certain radius of the home or to visit certain other places where the child regularly spends time,

4.  prohibitions to establish contact with the child or to bring about a meeting with the child,

5.  substitution of declarations of the person with parental custody,

6.  part or complete removal of parental custody.

(4)In matters of care for the person of the child, the court may also undertake measures with effect against a third party.

[table of contents](http://www.gesetze-im-internet.de/englisch_bgb/index.html#gl_p5815)

**Section 1666a
Principle of proportionality; priority of public support measures**

(1)Measures which entail a separation of the child from its parental family are admissible only if the danger cannot be countered in another way, not even through public support measures. This also applies if one parent is temporarily or for an indefinite period to be refused use of the family home. Where a parent or a third party is refused the use of the home in which the child also lives or of another home, then when the duration of the measure is assessed it should also be considered whether this person has the ownership, a heritable building right or usufruct in the plot of land on which the home is located; similar provisions apply to the ownership of an apartment, a permanent residential right and a right of habitation running with the land, or if the parent or third party is the lessee of the home.

(2)The complete care for the person of the child may be revoked only if other measures have been unsuccessful or if it is to be assumed that they do not suffice to avert the danger.

[table of contents](http://www.gesetze-im-internet.de/englisch_bgb/index.html#gl_p5818)

**Section 1667
Court measures in the case of endangerment of the property of the child**

(1)The family court may order that the parents submit an inventory of the property of the child and render an account of the management. The parents must affix to the inventory an affirmation that it is correct and complete. If the inventory submitted is inadequate, the family court may order that the inventory is made by a competent authority or by a competent official or notary.

(2)The family court may order that the money of the child is invested in a particular way and that its approval is necessary for revocation. If securities, valuables or Debt Register claims against the Federal Government or a Land are part of the property of the child, the family court may impose on the parent who represents the child the same duties as, under sections 1814 to 1816 and 1818, are imposed on a guardian; sections 1819 and 1820 apply with the necessary modifications.

(3)The family court may require the parent who endangers the property of the child to provide security for the property subject to his management. The nature and the scope of the provision of security is determined by the family court in its discretion. In the creation and cancellation of the security, the cooperation of the child is substituted by the order of the family court. The provision of security may be compelled only by the care for the property of the child being removed in whole or in part under section 1666 (1).

(4)The costs of the measures ordered are borne by the parent who occasioned them.

[table of contents](http://www.gesetze-im-internet.de/englisch_bgb/index.html#gl_p5823)

**Sections 1668 - 1670
(repealed)**

[table of contents](http://www.gesetze-im-internet.de/englisch_bgb/index.html#gl_p5824)

**Section 1671
Transfer of sole custody where the parents live apart**

(1)If parents live apart for a period that is not merely temporary, and if they have joint parental custody, each parent may apply for the family court to transfer parental custody or part of parental custody to him alone.The application is to be granted to the extent that

1.  the other parent consents, unless the child has reached the age of fourteen and objects to the transfer, or

2.  it is to be expected that the termination of the joint parental custody and the transfer to the applicant is most conducive to the best interests of the child.

(2)If parents live apart for a period that is not merely temporary and if, under section 1626a (3), the mother has parental custody, the father may apply for the family court to transfer parental custody or part of the parental custody to him alone. The application is to be granted if

1.  the mother consents, unless the transfer is inconsistent with the best interests of the child or the child has reached the age of fourteen and objects to the transfer, or

2.  joint custody cannot be considered and it is to be expected that the transfer to the father is most conducive to the best interests of the child.

(3)If the parental custody of the mother is suspended in accordance with section 1751 (1) sentence 1, the application of the father for transfer of joint parental custody in accordance with section 1626a (2) is to be deemed to be an application in accordance with subsection (2). The application is to be granted where the transfer of parental custody to the father is not inconsistent with the best interests of the child.

(4) The applications in accordance with subsections (1) and (2) are not to be granted where parental custody must be regulated differently on the basis of other provisions.

Section 1672    (repealed)

[table of contents](http://www.gesetze-im-internet.de/englisch_bgb/index.html#gl_p5834)

**Section 1673
Suspension of parental custody in the case of a legal obstacle**

(1)The parental custody of one parent is suspended if he is incapable of contracting.

(2)The same applies if he has limited capacity to contract. He has the care for the person of the child together with the legal representative of the child; he is not entitled to represent the child. In the case of a difference of opinion, the opinion of the minor parent has precedence, if the legal representative of the child is a guardian or curator; failing this, section 1627 sentence 2 and section 1628 apply.

[table of contents](http://www.gesetze-im-internet.de/englisch_bgb/index.html#gl_p5837)

**Section 1674
Suspension of parental custody in the case of a factual obstacle**

(1)The parental custody of a parent is suspended if the family court establishes that he cannot in fact exercise the parental custody for a long period of time.

(2)The parental custody revives if the family court establishes that the reason for the suspension no longer applies.

[table of contents](http://www.gesetze-im-internet.de/englisch_bgb/index.html#gl_p5840)

**Section 1674a
Suspension of the mother’s parental custody for a child delivered by confidential birth**

The mother’s parental custody is suspended for a child delivered by confidential birth pursuant to section 25 (1) of the Law on Conflicts in Pregnancies [Schwangerschaftskonfliktgesetz]. Her parental custody revives if the family court establishes that the mother has provided the court with the information required to enter the child’s birth in the register.

[table of contents](http://www.gesetze-im-internet.de/englisch_bgb/index.html#gl_p5842)

**Section 1675
Effect of the suspension**

As long as the parental custody is suspended, a parent is not entitled to exercise it.

[table of contents](http://www.gesetze-im-internet.de/englisch_bgb/index.html#gl_p5844)

**Section 1676
(repealed)**

[table of contents](http://www.gesetze-im-internet.de/englisch_bgb/index.html#gl_p5845)

**Section 1677
Termination of parental custody by declaration of death**

The parental custody of one parent ends if he is declared dead or the time of his death is established under the provisions of the Missing Persons Act [Verschollenheitsgesetz], at the time that is deemed to be the time of death.

[table of contents](http://www.gesetze-im-internet.de/englisch_bgb/index.html#gl_p5847)

**Section 1678
Consequences for the other parent of the actual prevention or of the suspension**

(1)Where a parent is actually prevented from exercising parental custody, or where his parental custody is suspended, the other parent exercises the parental custody alone; this does not apply if the parental custody under section 1626a (3) or section 1671 was held by the parent alone.

(2)Where the parental custody of the parent, which he had alone under section 1626a (3) or section 1671, is suspended, and where there is no prospect of the reason for the suspension ceasing to apply, the family court must transfer parental custody to the other parent if this is not inconsistent with the best interests of the child.

[table of contents](http://www.gesetze-im-internet.de/englisch_bgb/index.html#gl_p5850)

**Section 1679
(repealed)**

[table of contents](http://www.gesetze-im-internet.de/englisch_bgb/index.html#gl_p5851)

**Section 1680
Death of a parent or removal of the parental custody**

(1)If the parental custody was held by the parents jointly and if one parent has died, the parental custody is held by the surviving spouse.

(2)Where a parent who, under section 1626a (3) or 1671, had sole custody has died, the family court must transfer parental custody to the surviving parent if this is not inconsistent with the best interests of the child.

(3)Subsections (1) and (2) apply with the necessary modifications to the extent that one parent is deprived of parental custody.

[table of contents](http://www.gesetze-im-internet.de/englisch_bgb/index.html#gl_p5855)

**Section 1681
Declaration of death of a parent**

(1)Section 1680 (1) and (2) applies with the necessary modifications if the parental custody of a parent ends because he is declared dead or the time of his death has been established under the provisions of the Missing Persons Act [Verschollenheitsgesetz].

(2)Where this parent is still alive, the family court, on application, must transfer parental custody to him to the extent to which he held it before the conclusive date under section 1677, if this is not inconsistent with the best interests of the child.

[table of contents](http://www.gesetze-im-internet.de/englisch_bgb/index.html#gl_p5858)

**Section 1682
Order that the child remains with persons to whom it relates**

Where the child has lived for a long period in a household with one parent and the parent’s spouse, and where the other parent, who under sections 1678, 1680 and 1681 may now alone determine the abode of the child, wants to remove the child from the spouse, the family court may of its own motion or on the application of the spouse order that the child remains with the spouse, if and as long as the best interests of the child would be endangered by the removal. Sentence 1 applies with the necessary modifications if the child has lived for a long period in a household with one parent and the parent’s civil partner or a person entitled to contact under section 1685 (1).

[table of contents](http://www.gesetze-im-internet.de/englisch_bgb/index.html#gl_p5860)

**Section 1683
(repealed)**

[table of contents](http://www.gesetze-im-internet.de/englisch_bgb/index.html#gl_p5861)

**Section 1684
Contact of the child with its parents**

(1)The child has the right to contact with each parent; each parent has a duty and a right of contact with the child.

(2)The parents must refrain from everything that renders more difficult the relationship of the child to the other parent or the upbringing. Similar provisions apply if the child is in the charge of another person.

(3)The family court may decide on the scope of the right of contact and make more detailed provisions on its exercise, including provisions affecting third parties. It may enjoin the parties by orders to fulfil the duty defined in subsection (2). If the obligation in accordance with subsection (2) is considerably violated permanently or repeatedly, the family court may also order custodianship for the implementation of access (access custodianship). Access custodianship includes the right to demand surrender of the child to implement access and to determine where the child is to be for the duration of access. The order is to be time-limited. Section 277 of the Act on the Procedure in Family Matters and in Matters of Non-contentious Jurisdiction applies with the necessary modifications to compensation for expenditure and remuneration of the access custodian.

(4)The family court may restrict or exclude the right of contact or the enforcement of earlier decisions on the right of contact, to the extent that this is necessary for the best interests of the child. A decision that restricts the right of contact or its enforcement for a long period or permanently may only be made if otherwise the best interests of the child would be endangered. The family court may in particular order that contact may take place only if a third party who is prepared to cooperate is present. The third party may also be an agency of the youth welfare service or an association; the latter then determines in each case which individual carries out the task.

[table of contents](http://www.gesetze-im-internet.de/englisch_bgb/index.html#gl_p5866)

**Section 1685
Contact of the child with other persons to whom it relates**

(1)Grandparents and siblings have a right to contact with the child if this serves the best interests of the child.

(2)The same applies to persons to whom the child relates closely if these have or have had actual responsibility for the child (social and family relationship). It is in general to be assumed that actual responsibility has been taken on if the person has been living for a long period in domestic community with the child.

(3)Section 1684 (2) to (4) applies with the necessary modifications. The family court may only order access custodianship in accordance with section 1684 (3) sentences 3 to 5 if the prerequisites of section 1666 (1) are met.

[table of contents](http://www.gesetze-im-internet.de/englisch_bgb/index.html#gl_p5870)

**Section 1686
Information on the personal circumstances of the child**

Each parent may, in the case of justified interest, demand information from the other parent on the personal circumstances of the child, to the extent that this is not inconsistent with the best interests of the child.

Section 1686a    Rights of the biological but not legal father

(1) As long as the paternity of another man exists, the biological father who has demonstrated a serious interest in the child has

1.  a right of access to the child if such access is in the best interests of the child, and

2.  a right to be provided with information from each parent regarding the personal circumstances of the child where he has a justified interest and this is not inconsistent with the best interests of the child.

(2) Section 1684 (2) to (4) applies with the necessary modifications with regard to the right of access to the child in accordance with subsection (1) no. 1. The family court may only order access custodianship in accordance with section 1684 (3) sentences (3) to (5) if the prerequisites of section 1666 (1) are satisfied.

[table of contents](http://www.gesetze-im-internet.de/englisch_bgb/index.html#gl_p5877)

**Section 1687
Exercise of joint parental custody when the parents live apart**

(1)If parents who have joint parental custody live apart not merely temporarily, then in the case of decisions in matters the arrangement of which is of substantial significance for the child their mutual agreement is necessary. The parent with whom the child, with the consent of the other parent or on the basis of a court decision, customarily resides has the authority to decide alone in matters of everyday life. Decisions in matters of everyday life are as a rule such as frequently occur and that have no effects that are difficult to alter on the development of the child. As long as the child, with the consent of this parent or on the basis of a court decision, resides with the other parent, the latter has the authority to decide alone in matters of actual care. Section 1629 (1) sentence 4 and section 1684 (2) sentence 1 apply with the necessary modifications.

(2)The family court may restrict or exclude the powers under subsection (1) sentences 2 and 4 if this is necessary for the best interests of the child.

[table of contents](http://www.gesetze-im-internet.de/englisch_bgb/index.html#gl_p5880)

**Section 1687a
Power to make decision of the parent without parental custody**

For each parent who does not have parental custody and with whom the child resides with the consent of the other parent or of another person with parental custody or on the basis of a court decision, section 1687 (1) sentences 4 and 5 and (2) apply with the necessary modifications.

[table of contents](http://www.gesetze-im-internet.de/englisch_bgb/index.html#gl_p5882)

**Section 1687b
Parental custody powers of the spouse**

(1)The spouse of a parent with sole parental custody who is not a parent of the child has the power, in agreement with the parent with parental custody, to make joint decisions in matters of the everyday life of the child. Section 1629 (2) sentence 1 applies with the necessary modifications.

(2)In the case of imminent danger, each spouse is entitled to undertake all legal act that are necessary for the best interests of the child; the parent with parental custody is to be informed without undue delay.

(3)The family court may restrict or exclude the powers under subsection (1) if this is necessary for the best interests of the child.

(4)The powers under subsection (1) do not exist if the spouses live apart for a not merely temporary period.

[table of contents](http://www.gesetze-im-internet.de/englisch_bgb/index.html#gl_p5887)

**Section 1688
Decisions of the foster carer**

(1)If a child lives in foster care for a long period, the foster carer is entitled to decide in matters of everyday life and to represent the person with parental custody in such matters. The person is authorised to manage the child’s earnings from work and to assert and manage maintenance, insurance, pension and other social security benefits for the child. Section 1629 (1) sentence 4 applies with the necessary modifications.

(2)The foster carer is equivalent to a person who in connection with the help under sections 34, 35 and 35a (1) sentence 2 nos. 3 and 4 of Book Eight of the Social Security Code [Sozialgesetzbuch] has taken on the upbringing of and care for a child.

(3)Subsections (1) and (2) do not apply if the person with parental custody declares otherwise. The family court may restrict or exclude the powers under subsections (1) and (2) if this is necessary for the best interests of the child.

(4)For a person with whom the child, on the basis of a court decision under section 1632 (4) or section 1682, resides, subsections (1) and (3) apply subject to the proviso that the powers set out may be restricted or excluded only by the family court.

[table of contents](http://www.gesetze-im-internet.de/englisch_bgb/index.html#gl_p5892)

**Sections 1689 - 1692
(repealed)**

[table of contents](http://www.gesetze-im-internet.de/englisch_bgb/index.html#gl_p5893)

**Section 1693
Court measures where the parents are prevented**

If the parents are prevented from exercising parental custody, the family court must take the measures necessary in the interest of the child.

[table of contents](http://www.gesetze-im-internet.de/englisch_bgb/index.html#gl_p5895)

**Sections 1694, 1695
(repealed)**

[table of contents](http://www.gesetze-im-internet.de/englisch_bgb/index.html#gl_p5896)

**Section 1696
Amendment of judicial decisions and of court-approved settlements**

(1)The decision on the right of custody or of access or a court-approved settlement must be amended if this is appropriate for sound reasons which affect the interests of the child in the long term. Decisions in accordance with section 1626a (2) may be altered in accordance with section 1671 (1); section 1671 (4) applies with the necessary modifications. Section 1678 (2), section 1680 (2), as well as section 1681 (1) and (2), remain unaffected thereby.

(2)A measure under sections 1666 to 1667 or another provision of the Civil Code, which may only be taken if this is necessary to avert a danger to the child’s best interests or which is in the child’s best interests (measure under the law on child protection) must be cancelled if there is no longer a danger to the best interests of the child or the measure is no longer necessary.

[table of contents](http://www.gesetze-im-internet.de/englisch_bgb/index.html#gl_p5899)

**Section 1697
(repealed)**

[table of contents](http://www.gesetze-im-internet.de/englisch_bgb/index.html#gl_p5900)

**Section 1697a
Principle of best interests of child**

To the extent not provided otherwise, the court, in proceedings on the matters provided for in this title, makes the decision that, taking into account the actual circumstances and possibilities and the justified interests of those involved, is most conducive to the best interests of the child.

[table of contents](http://www.gesetze-im-internet.de/englisch_bgb/index.html#gl_p5902)

**Section 1698
Surrender of the property of the child; rendering an account**

(1)If the parental custody ends or is suspended, or if their care for the property of the child ends for another reason, they must surrender the property to the child and, on request, render an account of the management.

(2)The parents must render account of the emoluments of the property of the child only to the extent that there is reason to assume that they have used the emoluments contrary to the provisions of section 1649.

[table of contents](http://www.gesetze-im-internet.de/englisch_bgb/index.html#gl_p5905)

**Section 1698a
Continuation of transactions in ignorance that parental custody has ended**

(1)The parents may continue the transactions connected with the care for the person of the child and with the care for the property of the child until they obtain knowledge of the termination of parental custody or until they ought to know of it. A third party cannot rely on this power if, when he undertakes a transaction, he knows of the termination or ought to have knowledge.

(2)These provisions apply with the necessary modifications if the parental custody is suspended.

[table of contents](http://www.gesetze-im-internet.de/englisch_bgb/index.html#gl_p5908)

**Section 1698b
Continuation of urgent transactions after the death of the child**

If the parental custody ends as the result of the death of the child, the parents must, until the heir can make other arrangements, carry out the transactions which cannot be deferred without danger.

[table of contents](http://www.gesetze-im-internet.de/englisch_bgb/index.html#gl_p5910)

**Sections 1699 - 1711
(repealed)**