

Elternkonsens

All you need to know as parents about custody
and access proceedings for your joint child

IMPORTANT ADDRESSES:



FURTHER INFORMATION:
www.elternkonsens.de



Baden-Württemberg

JUSTIZMINISTERIUM



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ELTERNKONSENS – CONCERTED ACTION FOR THE CHILD’S SAKE

You are getting divorced or have separated from your partner? The separation of parents is a very stressful situation for children. You want your child to suffer as little as possible from your separation. You are helping your child when you do not put additional strain on them by disputing about access or custody rights. Your child should not become a subject of the parents’ dispute.

FINDING AN AMICABLE SOLUTION

You should therefore seek an amicable solution already prior to the court proceedings. In most cases, a mutual, reasonable agreement is preferable to a court decision. You are the parents and you know your child better than anyone. First and foremost, it is your responsibility to ensure your child’s well-being. As a general rule, children need both their mother and their father.

You can make use of a wide variety of aids to find an amicable solution. With a range of advisory services tailored to your needs, the competent youth welfare office (Jugendamt) and various advisory centres at your place of residence provide you support.

The primary goal of legal custody and access proceedings is to serve the child’s interests. The child’s well-being is given top priority. Your child should be given the opportunity to maintain a close relationship with both parents. Regular contact with both parents is what best serves the child’s well-being. This is also stipulated by law. Any exceptions are limited to few, justified individual cases.

ELTERNKONSENS AS THE GUIDING PRINCIPLE

In many family court jurisdictions, custody and access proceedings are handled according to the principles of the Elternkonsens project. All parties involved in the proceedings – you, the legal representatives, the youth welfare office, the court and any guardians ad litem (Verfahrensbeistand) or experts – are urged to contribute to finding a proper solution. The already difficult atmosphere and existing conflicts should not be aggravated by recriminations and reproaches.

The written statements of your legal representative should be confined to the motion and a brief description of facts.

DEVELOPING A SATISFACTORY SOLUTION TOGETHER

The family court will set a date for the public hearing within one month of filing the motion. The court appointment will provide you the opportunity to put forward all aspects, suggestions, wishes and concerns you consider relevant. The court appointment will also be attended by representatives of the youth welfare office. You are expected to get in touch with the youth welfare office prior to the court proceedings in time for the appointment. The subsequent oral proceedings will make it possible for you, your legal representatives, the youth welfare office and the court to develop a satisfactory solution that you fully support and that is practicable given your specific life situation.

Should you still not be able to reach an agreement, the court will refer you to a (psychological) advisory centre. The specialists of the advisory centre will help you find an acceptable and practicable access and custody arrangement before the next court appointment.

The court may assign to the child a guardian ad litem (referred to as the child’s voice) for the proceedings. The guardian ad litem will interview the child and the parents in order to represent the child’s interests and wishes in the proceedings.

In order to protect the child in case of very contentious disputes, there is also the option of supervised exchange and/or supervised contact.