



**Kaiserslautern Legal Services Center
Legal Assistance Information**

Born in Germany



This information paper provides basic information only, and is not intended to serve as a substitute for a personal consultation with a Legal Assistance Attorney. For an appointment to see an attorney, dial DSN 483-8848 or Civilian 0631-411-8848.

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I. PLACE OF BIRTH

A. *Birth at a German Hospital*

a. In Germany the Office of Vital Statistics ("Standesamt") located in the Town Hall ("Rathaus") issues birth certificates ("Geburtsurkunden") and certified copies of the birth registration ("beglaubigte Abschriften aus dem Geburtenregister"). As of January 1, 2009 certificates of descent ("Abstammungsurkunden") are no longer issued. German hospitals are required by law to pass all birth information to the Office of Vital Statistics ("Standesamt") that has jurisdiction over the area where the hospital is located.

b. In Kaiserslautern the Westpfalz Klinikum reports to the Office of Vital Statistics, located in the Kaiserslautern Town Hall. That address reads as follows:

Stadtverwaltung Rathaus
- Standesamt -
Willy-Brandt-Platz 1
67653 KAISERSLAUTERN
Phone: 0631-365-0

B. *Birth at a US Army Hospital: Landstuhl Regional Medical Center (LRMC)*

a. If the child was born in a US Army Hospital, an AE Form 40-400B is required. It must be typed and signed by the physician or registrar. NOTE: Insure that all information contained on this form is correct. All errors must be corrected by the issuing hospital.

b. According to Article 15 NATO SOFA Supplementary Agreement (SA), the US Army hospital administration is under no obligation to release any information to the German Office of Vital Statistics, unless the newborn child is a German citizen. Art. 15 SA reads:

"1. The obligation under German law to report births and deaths to a German registrar shall not apply either with respect to a child born to, or with respect to the death of, a member of a force or of a civilian component or a dependent; where, however, such birth or death is reported to a German registrar, registration shall take place in accordance with the provisions of German law.

2. The obligation to report births and deaths remains unaffected in cases where the child is, or the deceased was, a German".

c. In the Kaiserslautern Military Community (KMC), it is not unusual for the US authorities to release information on babies born at Landstuhl Regional Medical Center (LRMC) to the German Office of Vital Statistics ("Standesamt") in Landstuhl for further processing. Contrary to general practice that office is NOT located in the Town Hall ("Rathaus") of Landstuhl but in a different building, called "Alte Rentei". Its address reads as follows:

Standesamt Landstuhl
Kirchenstr. 41
66849 LANDSTUHL
Tel.: 06371-83-0

d. Apart from the ordinary German version, an international birth certificate (“Geburtsurkunde”) may be issued upon special request by the parents. That document displays all data in several languages, English being one of them. The first copy will cost €10.00, additional copies can be obtained for €5.00. German authorities do not produce certified copies of a birth certificate, but the Office of Vital Statistics will issue new birth certificates whenever required and they will generate as many of them as are needed. In order to obtain the birth certificate, the parents need to present their passport and if married, a copy of their marriage certificate.

e. NOTE: you will have to present either a certified copy of the birth registry (“beglaubige Abschrift aus dem Geburtenregister”) or the AE Form 40-400B to the US General Consulate. An international birth certificate is not accepted (<http://germany.usembassy.gov/acs/reportsofbirthabroad-new/>).

II. US CITIZENSHIP

A. Consular Report of Birth Abroad (Form FS-240)

a. In order to establish entitlement to U.S. citizenship for a child born abroad, the US parent has to file an application for a Consular Report of Birth Abroad of a Citizen of the United States of America. This will generate the Consular Report of Birth Abroad of a Citizen of the United States of America (Form FS-240). This document serves as the functional equivalent of a birth certificate and can only be issued at a US Embassy or US General Consulate. However, the Central Processing Facility on Kleber Kaserne (Bldg. 3245) can assist you in the filing process, e.g., ID Card Section/DEERS [DSN 483-7662], TRICARE Overseas Enrollment Program [DSN 483-6358], Passport Section [DSN 483-7659],.... The fees for a Consular Report of Birth Abroad are regulated by law in Title 22, Chapter I, Subchapter C, Part 22 of the Civil Code of Federal Regulations (CFR) § 22.1 (see <http://ecfr.gpoaccess.gov>).¹ At the Passport Section of the Central Processing Facility money orders are the only acceptable form of payment and should be made payable to the "American Consulate, Frankfurt". In order to fill out the application properly you will need the following documents:

¹ 22 CFR 22.1 Item 7 specify a \$100.00 fee for the issuance of a FS-240.

1. Certified copy of the birth registry concerning your child from the Office of Vital Statistics (if born in a German hospital) or AE Form 40-400B (if born in a US Army Hospital)
2. Certified copies of parents' birth certificates or passports
3. Certified copy of parents' marriage certificate, if applicable
4. Evidence of the termination of any previous marriages of the parents, *e.g.* divorce decree, annulment decree, or death certificate (certified copies)
5. For a passport² you will also need two 2x2-inch photos (black & white or color with light colored background). Polaroid and machine photos are not accepted. You may want to use the Photo Studio on Kleber Kaserne (Bldg. 3266) [DSN 483-7578]. Appointments are necessary and should be made via <http://www.vios.army.mil>. You may also want to obtain a Memorandum from the Passport Section, stating that you are authorized to obtain official passport photos.
6. In certain cases, it may also be necessary to include affidavits of paternity or medical records of blood compatibility.

b. The Form FS -240 is issued on specially designated safety paper with preprinted serial numbers; multiple copies of the form cannot be issued. In order to obtain a replacement document for a lost/stolen or mutilated FS-240, please submit a notarized affidavit, concerning the lost/theft/mutilation of the FS-240 with a written request to the Department of State to the following address:

U.S. Department of State
 Passport Services
 Correspondence Branch
 1425 K Street, N.W. – Room 386
 Washington, D.C. 20522-1705

c. The request must contain an original signature and state the relationship of the requester to the subject. Furthermore, the requester needs to provide:

1. The full name of the child at birth
2. Date and place of birth
3. Parents' names
4. Serial number of the FS-240 (if known)
5. Any available passport information
6. A check or money order for approx. \$50.00, payable to the Department of State

d. The replacement FS-240 will have the number of the original document followed by a dash and a number indicating it is not the original issuance.

e. In order to find out where to write for Vital Records within the USA, you may contact the Department of Health and Human Services.

² 22 CFR 22.1 Item 1 and 2 specify different passport fees, depending on the applicant's status and age.

B. Certificate of Report of Birth (Form DS-1350)

If the birth was recorded in the Form of a Consular Report of Birth, certified copies of CERTIFICATION OF REPORT OF BIRTH (Form DS-1350), which is a document based on the FS-240, can be issued in multiple copies³. The DS-1350 serves most public and private needs and contains the same information as on the FS-240. However, the DS-1350 is not issued overseas and can only be obtained by writing the following address:

U.S. Department of State
 Passport Services
 Correspondence Branch
 1111 19th Street, N.W. – Suite 510
 Washington, D.C. 20522-1705

C. US Passport

a. A passport is a travel document issued by competent authority showing the bearer's origin, identity, and nationality, if any, which is valid for the entry of the bearer into a foreign country (8 U.S.C. 1101(3)). Effective July 2, 2001, the State Department requires both parents' consent to obtain passports and visas for travel of children under age 14 (Sec. 236, Public Law 106-113). If one parent is unavailable to sign the application, a signed letter or statement from the absent parent consenting to the travel must accompany the application. The intent of this change is to lessen the chance of one parent abducting their children and then using a US passport to escape with the children. The passport application process and the fees are discussed above (See, II.A.) and further outlined in 22 CFR § 51.43. For additional information please contact the Passport Section at the Central Processing Facility on Kleber Kaserne, Bldg. 3245 at DSN 483-7659 or CIV (0631) 411-7659 or go to the internet site: <http://www.travel.state.gov/passport/>. Since April 1, 2011 the full names of the applicant's parent(s) will be listed on all certified birth certificates.

b. The Children's Passport Issuance Alert Program (CPIAP) is a service for the parents and legal guardians of minor children (http://www.travel.state.gov/abduction/prevention/passportissuance/passportissuance_554.html). It enables the Department of State's Office of Children's Issues to notify a parent or court ordered legal guardian, when requested, before issuing a US passport for his or her child. The parent, legal guardian, legal representatives, or the court of competent jurisdiction must submit a written request for entry of a child's name into the program of the Office of Children's Issues. Note, that even though you are notified, a passport may be issued after all, unless a complete copy of the temporary or permanent court order effecting custody rights has been sent along with your request for notification.

³ According to 22 CFR 22.1 Item 43, there is a \$50.00 fee for the first copy and a \$50.00 fee for each additional copy.

US Department of State
Passport Services, Charleston Passport Center
ATTN: Children's Passport Issuance Alert Program
1269 Holland Street, Bldg. D
Charleston, SC 29405
Phone: (001) 888-407-4747
Fax: (001) 843-746-1827

D. How to obtain a (US) Social Security Card

Having a SSN is no proof of US citizenship. However, in order to get a SSN, the application form SS-5-FS (downloadable from <http://www.ssa.gov>) needs to be completed. The SSN consists of 9 digits, the first three digits are a geographical code (Area Number), the next two digits are called the Group Number and remaining four digits are the Serial Number. Since 1972 numbers were assigned beginning in the northeast (at 001) and moving westward (to 586). Yet, DC (577-589) has extra numbers and some of the lately more populated States like AZ, CA, MS, NC, TN, VA (600-699, 729-763) have received additional numbers.

E. Adopted Children

Effective February 27, 2000 the automatic adoption of US citizenship for adopted children, who were born abroad, has been facilitated (Sec. 320 of the Immigration and Nationality Act (INA)). The following are the requirements under the Child Citizenship Act of 2000:

1. At least one of the child's parents is a US citizen either by birth or naturalization
2. The child is under the age of 18
3. The child must be residing in the United States in the legal and physical custody of the US citizen parent having been lawfully admitted into the USA as an immigrant for lawful permanent residence.
4. If the child has been adopted, the adoption must be final.

III. ENTITLEMENT TO GERMAN CITIZENSHIP

A. At least one of the child's parents holds German Citizenship

According to § 4 para. 1 German Citizenship Act (Staatsangehörigkeitsgesetz – StAG), at least one of the parents has to be a German citizen in order to pass on German citizenship to the child. That child will be entitled to dual citizenship if the other parent passes that parent's citizenship along, too. Contrary to children born to non-German parents, these children **do not** have to decide which citizenship to keep once they reach the age of 18. They may keep their dual citizenship for life. However, Germans born abroad after December 31, 1999, can no longer pass on German citizenship to their children, if they have their ordinary residence abroad (§ 4 para. 4 StAG).

B. Both parents do NOT hold German Citizenship

Simply being born in Germany or possessing a German birth certificate does NOT establish entitlement to German citizenship, unless one of the child's parents has been an ordinary resident in Germany for the past 8 years and either possesses a right to reside or holds an unlimited alien's residence permit (§ 4 para. 3 StAG). In such a case, the child is allowed to have dual citizenship for a limited time. It will be entitled to German citizenship in addition to any foreign citizenship the parents may have passed to their child through the line of blood. However, the child has to decide which citizenship it wants to keep once it turns 18 years old (§ 29 StAG). Yet, these rules do NOT apply to personnel with NATO SOFA status, as they never receive a German alien resident permit; instead they receive a SOFA stamp [or the blue laminated SOFA card] to document their “temporary” status in Germany.

IV. NAME FOR A NON-GERMAN CHILD

Every child born in Germany is given a birth certificate with his/her name on it as well as parents' names. Therefore, every birth at a German hospital or where such information is released IAW Art. 15 SA has to be registered at the local Office of Vital Statistics ("Standesamt"), located in the Town Hall ("Rathaus") within one week and the parents have to disclose the child's name within one month following the birth according to §§ 18, 19, 22 Personal Status Act (Personenstandsgesetz - PStG). German procedural laws and German administrative regulations bind the persons working at the Standesamt. Those laws and regulations apply even if the child to be registered does not hold German citizenship. However, the child's name may be picked in accordance with the laws governing the child's nationality. Yet, distinguishing suffixes like "Jr." or "III" shall **not** be added to the name on the (German) birth certificate.

V. NAME FOR A GERMAN CHILD

In cases where at least one parent is German, the following should give you an overview about your options and where to pay attention to when picking the name for your child⁴. The "Gesellschaft für deutsche Sprache e.V.", Spiegelgasse 13, 65183 Wiesbaden supports parents in their search for names, too⁵:

A. Registration and Applicable Laws

a. Every child born in Germany is given a birth certificate with his/her name on it as well as parents' names. Therefore, every birth has to be registered at the local Office of Vital Statistics ("Standesamt"), generally located in the Town Hall ("Rathaus"), [exception: Landstuhl] within one week and the parents have to disclose the child's name within one month following the birth according to §§ 18, 19, 22 Personal Status Act (Personenstandsgesetz - PStG).

b. Article 10 of the German Introductory Code to the German Civil Code (Einführungsgesetz zum Bürgerlichen Gesetzbuch - EGBGB) controls the issue of the applicable law in cases where a child has dual citizenship. In cases where one parent is German and the other is American, the child will have dual citizenship (German and American). Article 10 and Article 5 EGBGB state that if the place of birth corresponds with one citizenship, then the laws of that country shall govern the issue of a child's name. Consequently, the laws of Germany have to be applied in the matter of your child's name.

c. In Germany there are no statutes specifically dealing with the matter on how to name a child. The Personal Status Act (Personenstandsgesetz - PStG) spells out procedural rules only. Based on that Act an administrative regulation has been established, called Staff Regulations for the Registrar of Vital Statistics (Dienstanweisung für Standesbeamte - DA). It also reflects many court decisions. Yet, it is the immanent right of the parents to give their child a name stemming from their custody right, guaranteed by Article 6 par. 2 of the German Constitution, officially known as the Basic Law (Grundgesetz - GG) and specified in § 1626 German Civil Code (Bürgerliches Gesetzbuch - BGB). However, such rights and the parent's creativity are not unlimited because the child has rights of its own. These rights have to be taken into consideration as well and have to be balanced against the parent's wish to give their child the desired name⁶.

⁴ Goethe: "Der Eigename eines Menschen ist nicht etwa wie ein Mantel, der bloß um ihn herumhängt und an dem man allenfalls noch zupfen und zerren kann, sondern ein vollkommen passendes Kleid, ja wie die Haut selbst, ihm über und über angewachsen, an der man nicht schaben und schinden darf, ohne ihn selbst zu verletzen".

⁵ Die Gesellschaft gibt u.a. ein Buch mit dem Titel "Vornamen" von Wilfried Seibicke heraus.

⁶ BayObLG NJW 1984, 1362.

B. First Name

a. Since the 14th century Germans distinguish between a first and a last name⁷. A child should have no more than one first name and three middle names⁸. A double name, two names connected by a hyphen, is considered to be only one name, *e.g.* "Hans Joerg" (2 names) or "Hans-Joerg" (1 name!)⁹. Therefore, the above mentioned 4 names limitation can be extended to eight names by adding hyphens. However, one should remember how burdensome it could become for a child in his/her later life to fill out documents stating all his/her names. It not only takes time but also requires sufficient space on these documents, constituting a waste of time and money, *i.e.*, why the number of names was limited to four.

b. The first name gives a child his/her personality. The child will be known by his/her first name to his/her friends. It is used as a distinctive factor among family members bearing the same last name. Therefore, a family is not allowed to give their children the same names¹⁰. The first name is a characteristic element of a child's personality. Sometimes children are given the name of their godfather/godmother or grandparents. Moreover, there are traditional names, either religious names like Mary, John, Paul, George, Nicholas, or old (German) Nobel names like Friedrich, Konrad, Heinrich, Burkhard. Yet, today, tradition no longer plays a major rule but is superseded by what is "in". Often the child is named after public figures like artists or politicians. The parents believe or hope to create an association with that person's good character and that their child is inspired by that name.

C. Restrictions on the Choice of Name

a. The parents often desire to honor their beloved child with a special name. They tend to invent a fantasy name or to come up with extremely unusual names. However, some basic rules have to be obeyed.

b. NAME AND GENDER. One of the fundamental principles in naming children requires that the child's gender is made obvious¹¹. It does not matter whether a German or a foreign name is picked¹². A boy has to have a male name and a girl has to have a female name. Most names have a female and a male form, *e.g.*, the female form of Steve or Stephen is Stephanie. Ambiguous names need to be clarified by adding a non-controversial name¹³. Otherwise it might be too difficult to determine who that person is, especially in that person's absence. Yet, nowadays many documents ask for a person's gender in addition to his/her name. There are only three exemptions to the above stated rule¹⁴. Catholic parents are allowed to name

⁷ Loos, Kommentar zum NamensänderungsG, 1970, § 11 Anm. 1.

⁸ AG Hamburg, StAZ 1970, 286; 1980, 198.; Pfeiffer, Gert / Strickert, Hans-Georg, Kommentar zum Personenstandsgesetz. § 21 Rn. 22 Berlin 1961.

⁹ Massfeller-Hoffmann, PStG, 17. Lfg. (1980) § 21 Rn. 53.

¹⁰ Diederichsen, Uwe, Das Recht der Vornamensgebung, NJW 1981, 705, 709 m.w.N..

¹¹ Loos, § 11 Anm. 4; BGHZ 73, 241.

¹² Massfeller-Hoffmann, § 21 Rn. 50; BGHZ 73, 239.

¹³ BGH NJW 1984, 1362.

¹⁴ Diederichsen, a.a.O., S. 707.

a boy "Maria" if they give him an additional unambiguous male name. Secondly, where local customs have established traditional name forms, *e.g.*, Frisian names. Finally, in all cases where a child was born abroad and, thereafter, obtained the German citizenship.

c. PUBLIC CONCERNS AND VIOLATIONS OF CHILD'S PERSONALITY RIGHTS.

Besides the above-mentioned requirements the parents shall not abuse their right to name their child. They are bound by moral and ethic standards as well as by the child's right to be given a name he/she can live with decently. A child has to live with his/her name for the rest of his/her life, without having any direct influence on his/her parent's choice. He or she is helpless. Therefore, some basic restrictions are erected. It is not allowed to name children after cities, countries or things, *e.g.*, it is impossible to name a child Florence in memory of the British nurse Florence Nightingale¹⁵. Offensive or ridiculous names are forbidden because those names would make life hard for the child and hinder his/her development. According to psychological tests and experts' opinions, children with extraordinary names have a much more difficult time in life and are less likely to cope with problems because they already see their name as a problem¹⁶. Those children may become problem children. A German child shall not be named Jesus, Cain, or Prince due to the fact that this could insult the religious believes of many people. Suffixes like "I", "II", "III" or "Jr." are prohibited, too. Likewise newly created names or names of fictitious persons are looked upon very unfavorably. Suspicion also arises if the parents intend to deviate from a traditional written form, *e.g.*, Phillip or Pfilip instead of Philippe, Philipp or Philip. The spelling takes control over the spoken words ("Transliterationsregeln"), *e.g.*, Mike (English, German) or Maik (German) instead of Meik¹⁷.

D. Legal Remedies

a. BORDERLINE CASES. Fictitious names out-of books, songs or TV shows may be registered as a middle name. These names need to be accompanied by a traditional name in order to ease any uneasy feelings, *e.g.*, "(Philipp) Pumuckel"¹⁸, "(Tillmann) Winnetou"¹⁹, "Timpe"²⁰, "Alura (Leigh)"²¹. Parents creating a completely artificial name face an even tougher test. The name "Jama"²², created out-of the father's first name "Jacob" and the mother's first name "Maria", was rejected while the name "(Bastian) Samandu"²³ was approved due to the fact that it looked and sounded at least like an Indian or African name. Associations with products are forbidden, *e.g.*, names like "Gin" or "Cola" were unanimously rejected²⁴. The same is true for sound alike or any names close to it.

¹⁵ Ebenda.

¹⁶ Diederichsen, a.a.O., S. 709 m.w.N..

¹⁷ LG Lübeck StAZ 1968, 48.

¹⁸ OLG Zweibrücken NJW 1984, 1360.

¹⁹ AG Darmstadt StAZ 1975, 134, wobei der Name als geschlechtsneutral eingestuft wurde und daher der Zusatz Tillmann nötig wurde. Die Tochter von Karl Zuckmeyer hieß ebenfalls Winnetou.

²⁰ OLG Hamburg StAZ 1980, 193.

²¹ Rathaus Schweinfurt, September 2003.

²² KG JFG 9, 71; LG Münster NJW 1965, 1232.

²³ BayObLG NJW 1984, 1362.

²⁴ Diederichsen, a.a.O., S. 709.

b. **CHANGE OF NAME.** The name in the birth certificate can never be changed, again, unless that person undergoes a medical change of gender or another severe situation arises (§ 47 PStG). However, the first name and the middle name may be switched upon giving reasonable grounds²⁵. Should the Standesbeamter refuse to write the selected name on the birth certificate, the parent have the right to file an objection against the decision of the Standesbeamter (§§ 49, 53 PStG). This has to be done immediately. The matter will thereafter be decided before a court of law (§ 51 PStG, §§ 58 ff FamFG).

Prepared by Joerg C. Modellmog, German Attorney-Advisor

²⁵ Mozart changed his name Wolfgangus Theophilus to Wolfgang Amadeus.