PART 1

MOTHERHOOD IN THE LAW OF PARENTAGE

In recent years, various perspectives have been used to examine the extent to which a reform of the law of parentage would be appropriate.[1] The focus has so far been more on paternal descent law, while maternal descent law has only recently come into focus.[2] The present work examines the need for reform in the law of parentage for this reason, based on the only regulation on maternal parentage allocation: § 1591 BGB. It offers a good starting point to examine and clarify the various challenges of a right of parentage de lege ferenda. In order to create a technical basis for the detailed investigation of § 1591 BGB, it is first advisable to deal with the basics and background of the applicable law of descent.

1 The following dissertations and habilitation theses may be mentioned here as examples: Wanitzek, Legal Parenting in Medically Assisted Reproduction, 2002; Duden, surrogacy in international private and procedural law, 2015; Voigt, Right of Origin 2.0, 2015; Plettenberg, father, father, mother, child - a plea for legal multiple fatherhood, 2016; Reuss, Theory of a Parenthood Law, 2018; Sanders, multiple parenting, 2018.

2 For an overview, see the articles in: Röthel/ Heiderhoff (ed.), Regulatory Task Mother Position: What can, what is allowed, what does the state want?, 2016.

Chapter 1

Basics

However, there are no legal consequences

Chapter Author

Abstract: Legal relationship, the legal consequences of which do not arise from § 1589 BGB itself, but rather from various civil, criminal and procedural norms.[1] Section 1589 I BGB divides the relationship into lines in the first two sentences and into degrees of relationship in the third sentence. The second paragraph ("An illegitimate child and its father are considered unrelated.") Is with the entry into force of the law on the legal status of illegitimate children

Keyword: kyy, capita, des, one, can

The fourth book of the Civil Code deals with family law. The first section contains two general rules on kinship in §§ 1589 and 1590 BGB. The following section regulates the right of parentage in §§ 1591-1600d BGB. The other provisions of the second section define, in particular, the legal parent-child relationship (filing law).[2] A discussion about the need for reform of the

1 Staudinger/ Coester, § 1589, Rn. 2; BeckOGK BGB/ Haßfurter, § 1589, Rn. 5; a list of the legal consequences can be found at: Palandt/ Brudermüller, Einf. § 1589, Rn. 2; MüKoBGB/ Wellenhofer, § 1589, Rn. 16 ff.; Schwab, Familienrecht, 2018, marginal number 631 ff.

2 Wellenhofer, Family Law, 2017, § 30. Reuss, Theory of a Parenthood Law, 2018; Sanders, multiple parenting, 2018.

current law on parentage cannot take place without a look at its basis and background.

A. The relationship, § 1589 BGB

The right of descent as a general regulation is preceded by § 1589 BGB, which contains the legal definition of kinship.[3]

I. The purpose of the standard at a glance

§ 1589 BGB defines kinship as the descent from one another (§ 1589 I 1 BGB) or from the same third person (§ 1589 I 2 BGB). This relationship is a legal relationship, the legal consequences of which do not arise from § 1589 BGB itself, but rather from various civil, criminal and procedural norms.[4] Section 1589 I BGB divides the relationship into lines in the first two sentences and into degrees of relationship in the third sentence. The second paragraph ("An illegitimate child and his/ her father are not considered related.") Has been omitted with the entry into force of the law on the legal status of illegitimate children (NEhelG) on July 1st, 1970.[5]

II. Of the Concept of descent in § 1589 BGB

Section 1589 of the German Civil Code (BGB) does not contain a definition for the concept of descent. The question therefore arises as to which understanding of the term § 1589 BGB is to be based on. The term can be understood in two ways: either as the genetic descent or as the legal descent according to §§ 1591 ff. BGB.[6]

3 Explanation on the concept of kinship in various sciences: Ecarius in: Ecarius (Hrsg.), Handbuch Familie, 2007, p. 220 ff.

4 Staudinger/ Coester, § 1589, Rn. 2; BeckOGK BGB/ Haßfurter, § 1589, Rn. 5; a list of the legal consequences can be found at: Palandt/ Brudermüller, Einf. § 1589, Rn. 2; MüKoBGB/ Wellenhofer, § 1589, Rn. 16 ff.; Schwab, Familienrecht, 2018, marginal number 631 ff.

5 Federal Law Gazette I 1970 p. 1243; on the obvious unconstitutionality of § 1589 II BGB old version before the NEhelG: BVerfG, decision of 03.11.1981 - 1 BvL 11/77, 1 BvL 85/78, 1 BvR 47/81, BVerfGE 58, 377, 389.

6 For the various parent terms see glossary p. 331 ff.

If the term ancestry is used in the context of kinship, then genetic kinship is meant in the general understanding of the language.[7] Also in the explanatory memorandum to § 1591 BGB it was pointed out that the concept of descent contained in § 1589 BGB should be understood in the sense of a genetic descent.[8] This appears problematic at least when a person is the legal parent, although there is no genetic connection to the child.[9] There would then be a term of descent in the sense of § 1589 BGB and one in the sense of §§ 1591 ff. BGB.[10] For this reason, too, the concept of descent in Section 1589 of the German Civil Code is predominantly understood as legal ancestry within the meaning of Sections 1591 ff.[11] This is supported by the fact that § 1589 BGB mentions the concept of descent without defining it itself. The regulations of §§ 1591-1600d BGB following § 1589 BGB are then overwritten with the title descent. This makes it clear that the relationship is based on ancestry in the sense of these paragraphs. The parentage regulations select criteria that make a congruence of genetic and legal parentage probable.[12] However, they do not link legal descent to positive evidence of genetic descent. An understanding of the concept of descent in the legal sense is further supported by the fact that in regulations in which only genetic descent should be decisive, the term "bodily" is regularly added to clarify this.[13] For example, § 1597a V BGB excludes an abusive acknowledgment of paternity if the acknowledging person is the biological father and § 1598a BGB regulates the right to consent to a genetic examination to clarify the biological parentage. The concept of descent in § 1589 BGB is thus to be understood as legal descent in the sense of §§ 1591 ff. BGB.

7 Explanation on the general language understanding of descent: Reuss, Theory of a Parenthood Law, 2018, p. 36 ff.

8 BT print. 13/4899, p. 82; in this direction as well: Gaul, FamRZ 1997, 1441, 1463; Housing, Medical Reproductive Techniques and the New Law of Descent, 2001, p. 109.

9 Schwab, Familienrecht, 2018, marginal number 628, which, for example, understands § 1591 BGB as an exception to § 1589 BGB if genetic and natal motherhood fall apart.

10 See also: BeckOGK BGB/ Haßfurter, § 1589, Rn. 19.

11 OLG Frankfurt a. M., decision of 22.09.2016 - 20 W 59/14, NJW-RR 2017, 519 (520, Rn. 27); Palandt/ Brudermüller, introductory v. § 1589, Rn. 1; BeckOGK BGB/ Haßfurter, § 1589, Rn. 19.1; for a combined understanding of the concept of descent from genetic and legal descent: MüKoBGB/ Wellenhofer, preliminary remarks on the law of descent, Rn. 18; Reuss, Theory of a Parenthood Law, 2018, p. 137.

12 See below on p. 12.

13 Also in this direction: BeckOGK BGB/ Haßfurter, § 1589, Rn. 8; loc. cit.: Staudinger/ Coester, § 1589, Rn. 1.

B. The right of parentage, §§ 1591-1600d BGB

The right of parentage is regulated in §§ 1591-1600d BGB.[14] Sections 1741-1772 of the German Civil Code (BGB) on adoption as a child (adoption) are also included in the broader group of regulations governing parentage law, as they basically have the same effects as parent-child relationships under parentage law (Section 1754 of the German Civil Code).[15]

I. Motherhood and fatherhood

For maternity, § 1591 BGB contains the only regulation that says that the mother of a child is the woman who gave birth to it. There are no other circumstances of maternity. A correction of this motherhood is also not possible - outside of adoption.

The paternity is regulated in §§ 1592 ff. BGB, whereby § 1592 BGB finally defines the three connection alternatives.[16] By law, the father of a child is initially the man who is married to the mother of the child at the time of birth, Section 1592 No. 1 BGB. This fact of paternity is supplemented by § 1593 BGB and § 1599 II BGB. Section 1593 BGB concerns the assignment of a child born within 300 days of the dissolution of the marriage through the death of the husband. § 1599 II BGB (so-called divorce-accessory recognition[17]) enables paternity to be recognized by a third party despite the mother's marriage if the child was born after the application for divorce was pending.[18]

- Things[...] that don't belong there either ". He can explain this solely through the incompetence of the authors

  The above suspect figures show that the proportion of older suspects

14 Very detailed on the development of ancestry and parenthood: Sanders, Mehrelternschaft, 2018, p. 33 ff.; an overview can also be found at: BeckOGK BGB/ Haßfurter, § 1591, Rn. 18 ff.; MüKoBGB/ Wellenhofer, preliminary remarks on the law of parentage, Rn. 1 ff.; Schwab, Familienrecht, 2018, marginal number 635 ff.

15 MüKoBGB/ Wellenhofer, § 1589, Rn. 1; Reuss, Theory of a Parenthood Law, 2018, p. 129 f.

16 BeckOGK BGB/ Balzer, § 1592, 1.

17 See below on p. 23.

18 Dethloff, Family Law, 2018, § 10 marginal number 12.

- For they "would have understood their economy well, but had no particular knowledge in the other parts of the world = whiteness
  - So most of them lacked the skill to properly select their materials and to combine them properly
    has increased; however, the relative exposure of older people is still well below
  - and "skill" complains, proves from a historical perspective to be an expression of a different, an older "order of things" that has wavered
  - Areas of knowledge that in the 17th century were still naturally included in the economy,
    now appear as "foreign matter". Apparently something has shifted
    - Rohr's voluminous work highlights an epistemological reconfiguration that is shaping the modern concept of economy
      their share of the population. In 2015, over a quarter (27.38%) of the population belonged to the
    - This term has its roots in two originally "widely spaced poles", which gradually converged before they were in the 18th century
    - Century, with splitting off some partial semantics, amalgamated. This dichotomy goes back to Aristotle. Economics, the management of a house (oikos), that is how he explains in his politics
  - should be distinguished from chrematistics, the merchant's art. The criterion is the degree to which the concepts correspond or contradict 'nature'
- For him, economics is natural because it is geared towards feeding a community on its own

The second way to legal paternity is through recognition, § 1592 No. 2 BGB. If the mother of the child is not married at the time of birth or if legal paternity has ended through contestation, acknowledgment of paternity is possible according to §§ 1594-1589 BGB. Both paternity by virtue of marriage and that through recognition can in principle be challenged according to §§ 1599-1600c BGB.

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    their share of the population. In 2015, over a quarter (27.38%) of the population belonged to the
  - This term has its roots in two originally "widely spaced poles", which gradually converged before they were in the 18th century
    - Monograph I have both practical and theoretical support from various people
      However, these external developments were dogmatically recorded and processed only in the second half of the 19th century
    - It was shown in many cases that both the content of the book
      1. a valuable scientist, but also as a friend and colleague
         Conception of the tax state represented. Although he did not yet use the term "tax state", it becomes clear that he was the then
      2. as he was always by my side whenever I had his support
         - in the end because she provided me with a study
         - I also thank my student assistants
           some partial semantics, amalgamated. This dichotomy
  - Century, with splitting off some partial semantics, amalgamated. This dichotomy goes back to Aristotle. Economics, the management of a house (oikos), that is how he explains in his politics
- should be distinguished from chrematistics, the merchant's art. The criterion is the degree to which the concepts correspond or contradict 'nature'
- For him, economics is natural because it is geared towards feeding a community on its own

If there is neither an assignment by virtue of marriage nor recognition, paternity can be determined by a court on application, § 1593 No. 3 BGB. The

aim of the procedure is the positive - in rare cases also the negative - determination of the genetic father.[19] In terms of material law, the judicial determination is regulated in § 1600d BGB, procedurally in §§ 169-185 FamFG. The authorization of the mother, the potential father and the child is no longer regulated in the civil code itself, but is either based on § 1600 I BGB and § 172 FamFG[20] or according to the ratio legis[21] derived.

II. The right of descent as a status right

The right of descent takes on the task of the legal assignment of a child to its parents and thus at the same time also the corresponding relationship within the meaning of § 1589 BGB.[22] According to the understanding of family law, parenting is a legal status mediated by the right of parentage.[23] Legal positions related to parentage are accordingly highly personal in character.[24] The right of parentage gives the child his or her position within the legal system (personal status according to § 1 I 1 PStG).[25] The legal parent-child allocation applies - and this also characterizes a status right - absolutely and with effect for and against everyone (inter-omnes effect).[26] In connection with parenthood, this is shown in particular by the blocking effect for disputing legal parent-child assignments outside of the contestation procedure as well as the

19 Gernhuber/ Coester-Waltjen, Family Law, 2010, § 52 Rn. 71 ff.; MüKoBGB/ Wellenhofer, § 1600d, Rn. 28 f.

20 MüKoBGB/ Wellenhofer, § 1600d, Rn. 13 ff.; Dethloff, Family Law, 2018, § 10 marginal number 61.

21 Gernhuber/ Coester-Waltjen, Family Law, 2010, § 52 Rn. 75; BeckOGK BGB/ Reuss, § 1600d, Rn. 8; Schwab, Family Law, 2018, marginal number 705.

22 Schwab, Family Law, 2018, marginal number 658.

23 M. Lipp in: Schwab/ Vaskovics (Ed.), Pluralization of Parenthood and Childhood, 2011, pp. 121, 126; Sanders, Mehrelternschaft, 2018, p. 11; Windel in: V. Lipp/ Röthel/ Windel (Ed.), Family Law Status and Solidarity, 2008, pp. 1, 6 ff.; Going further to considerations away from a status relationship towards a status orientation: Röthel in: Röthel/ Heiderhoff (Ed.), Regulatory task father position: What can, what is allowed, what does the state want?, 2014, pp. 89, 98 ff.

24 M. Lipp in: Schwab/ Vaskovics (Ed.), Pluralization of Parenthood and Childhood, 2011, pp. 121, 126; Reuss, Theory of a Parenthood Law, 2018, p. 153.

25 Gaaz, FamRZ 2007, 1057, 1059; Helms in: Röthel/ Heiderhoff (Ed.), Regulatory Task Father Position: What can, what is allowed, what does the state want?, 2014, pp. 19, 27; MüKoBGB/ Wellenhofer, preliminary remarks on the right of parentage, Rn. 19; Reuss, Theory of a Parenthood Law, 2018, p. 130; Sanders, Mehrelternschaft, 2018, p. 11; Schwab, Familienrecht, 2018, Rn. 658; critical of the concept of status: Röthel in: Röthel/ Heiderhoff (ed.), regulatory task father position: What can, what is allowed, what does the state want?, 2014, pp. 89, 94 ff.

26 Gernhuber/ Coester-Waltjen, Familienrecht, 2010, p. 6; MüKoBGB/ Wellenhofer, preliminary remarks on the right of parentage, Rn. 19; Dethloff, Family Law, 2018, § 10 Rn. 2; Reuss, Theory of a Parenthood Law, 2018, p. 131; Sanders, Mehrelternschaft, 2018, p. 11.

assertion of their existence outside of status proceedings (§§ 169 ff. FamFG) and § 1598a BGB.[27]

1. The following basic principles from status law

The right of parentage legally assigns children to their parents and thus also determines their legal status at the same time. This property as a status right results in three basic principles, which the legislature follows in the legal parent-child allocation:

- he is primarily his beggar and soldier life. The fact that he calls himself the "Steltzvorshaus" (169) underlines this
- Being able to tell life stories are neither part of a house community nor merchants, but have to find their livelihood through other means
- The novel weighs up various types of acquisition against one another, so much must be said at this point. Simplicius, whose economy compared to Philarchus and
  - Springinsfeld takes up the shortest narrative time (the "VII. Chapter"), combines several models: Although he does not participate in the activities associated with the Oeconomia,
  - The proceeds flow to him. They appear in this scene as a kind of extra income that is provided by secondary characters. In the market he acts like a merchant by selling a commodity,
  - the instrument for stimulating the commercial part "calls his Gauckel -asche" (203). Even in the few cases where 'conventional' farming practices play a role
- Taking a closer look at these different ways of doing business is the first step in this work

a) Status truth

The principle of status truth basically means that the legally assigned status follows the endeavor to map the genetic descent of a child from its parents.[28]

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27 Gernhuber/ Coester-Waltjen, Family Law, 2010, § 52 Rn. 6; Sanders, Mehrelternschaft, 2018, p. 11.

28 Spickhoff/ Spickhoff, title 2. Descent, preliminary remark, margin no. 2; MüKoBGB/ Wellenhofer, preliminary remarks on the law of parentage, margin no. 24 ff.

Extract In addition to the possibility of correcting the contestation, which is relevant in terms of status law, there is an instrument for clarifying genetic ancestry without legal consequences in Section 1598a BGB

1. Reuss, Theory of a Parenthood Law, 2018; Sanders, multiple parenting, 2018.
2. Reuss, Theory of a Parenthood Law, 2018; Sanders, multiple parenting, 2018.

aa) congruence *genetic* and legal descent

With the current allocation facts of the law of parentage, the legislator is pursuing the goal of making a legal parent-child allocation that corresponds to genetic truth. First and foremost, the genetic parents should also be parents in the legal sense. This is justified in particular by the fact that genetic parenting suggests that these people will actually be ready to take on the role of parents from the time the child is born. In addition, the child's right to knowledge of his or her genetic origin (Art. 2 I in conjunction with Art. 1 I GG) is taken into account through a legal assignment that corresponds to genetic truth. Finally, it is argued that the genetic link promises stability and continuity in the parent-child relationship.

bb) Auxiliary criteria for determining genetic ancestry

Even if the genetic ancestry can nowadays be elucidated by parentage reports in almost all cases, it is nevertheless not recognizable from the outside.[29] The legislature therefore chose auxiliary criteria for determining the legal descent of a child, which make it appear likely that a person who fulfills the criteria is also genetically linked to the child. With regard to motherhood, § 1591 BGB therefore stipulates that the woman who gave birth to the child is the mother in the legal sense. Legal paternity, on the other hand, is primarily assigned to the mother's husband (Section 1592 No. 1 BGB) or to the man who recognizes paternity for the child (Section 1592 No. 2 BGB). A genetic parentage test is only carried out in connection with the judicial determination of paternity (Section 1592 No. 3 BGB). It is therefore possible that genetic and legal descent fall apart due to the allocation criteria of §§ 1591, 1592 No. 1, 2 BGB. For example, a man other than the husband can be the genetic father or a man can - consciously or unconsciously - acknowledge the paternity of a child to whom there is no genetic connection. There are also such constellations

The legislature tolerates a divergence of genetic and legal descent. With regard to paternity, the institute of contestation has at least one possibility of correction. In individual special cases, however, the legislature goes beyond

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a. Reuss, Theory of a Parenthood Law, 2018; Sanders, multiple parenting, 2018.
b. Reuss, Theory of a Parenthood Law, 2018; Sanders, multiple parenting, 2018. Reuss, Theory of a Parenthood Law, 2018; Sanders, multiple parenting, 2018.

29 Explanation of parentage reports: Erman/ Hammermann, Vor § 1591, Rn. 4 ff.; see also: Wellenhofer, NZFam 2014, 117, 118 ff.

30 General information on legal parentage clarification: Wellenhofer, NZFam 2014, 117.

this tolerance and protects a divergence of genetic and legal parenthood on a permanent basis. This is particularly the case if there is a social-family relationship between the legal father and the child, which excludes a challenge by the genetic father according to § 1600 II, III BGB. This is based on consideration for the will and interests of those involved with a view to legal security, family peace and the best interests of the child.

1. The two poles outlined here - instructions for housekeeping here, theological or commercial reflections on the sphere of exchange there - come to mind as points of reference when one
   Group of those who are 60 years and older. Their share of the suspects was im
2. would like to think about the role of the economy in Grimmelshausens. They provide a grid with which one can sort previous research. So can be, regardless of their methodical
3. Differences, a number of recent essays working with contemporary sources, roughly assign to one pole or the other. On the one hand, Maximilian underpins it
   a. Bergengruen his argumentation with handouts for merchants, while Christoph Deupmann and
      Rainer Hillenbrand choose the moral theological discourse as the context. Manfred Koschlig's synopsis
   b. of the pieces of text that Grimmelshausen borrowed from Johannes Coler's Oeconomia, for Helga Brandes and Simon Zeisberg, on the other hand, is the starting point for using housekeeping books
   c. What the economic historian Bertram Schefold comments on Luiz Ortiz, perhaps the "first European mercantilist", seems to suggest that one should also
      i. mercantilist discourse should pay more attention. Because the work of Ortiz, who was an official in the service of the Spanish crown, coincides with one
         With further differentiation within the group of the elderly, it is noticeable that their number continuously decreases with advancing age
      ii. literary-historical event: "At the same time[...] is the Spanish picaresque novel that goes with Ortiz - the Lazarillo de Tormes appears in 1554." How is 'fitting' to be understood here?

iii. The Memorial del Contador Luiz Ortiz, completed in 1558, was created in the face of rampant poverty in Spain: "He[Ortiz] is depressed by the mass of the unproductive, and besides
    1. he counts students and clerks as well as soldiers and emigrants; But if there are enough skilled trades, the whole pack of vagabonds and criminals disappears. "From the milieu,
       The low percentage of old-age crime in total crime can be attributed to various factors
    2. the headache of the official comes from the staff of the Pikaro novels. In this respect, the learned treatise and novel 'fit' together - at the same time they are different
    3. but also on one important point. Because Ortiz is not interested in the economic practices of this milieu. Rather, he wants to get rid of its representatives
        a. His considerations are ways and means of getting these people into jobs that he considers productive. The Pikaro novel is completely different: it describes survival strategies Bring back factors. The ability decreases due to physical and mental degradation
        b. The focus is, to express it with a phrase coined by Valentin Groebner, 'economic internal logics'. Groebner comes up with this in connection with the debate
        c. which was sparked by Otto Brunner's concept of the 'whole house'. Brunner idealized this premodern 'whole house' as a counter-image to modern market society
            i. as a self-sufficient, self-sufficient community with a fixed hierarchy. As historical research has shown, there were also households in the Middle Ages and early modern times
               To commit criminal offenses. The withdrawal from social life caused by retirement as well as the, if applicable,
            ii. always embedded in market conditions. "The supposedly closed 'whole house', for many a place anyway that they have to share with others, turns out to be", says Groebner,
            iii. "As one whose doors and windows are very wide open." The aim must therefore be "to make visible the

economic activities of those who work in whole or not so whole houses

1. They act in internal economic logics that move and have to move not below, but between the employer economies "
   increased social control reduces the chances of committing crimes. Come in addition
2. For the relationship between the bipolar premodern economic discourse and the Pikaro novel, the talk of 'economic internal logics' is illuminating insofar as texts of this genre are also economic ones
3. Take a look at logics that lie between the two poles. Merchants, theologians and mercantilists are primarily concerned with modalities of exchange, economists

d. through fraud, begging, gambling and robbery. However, these practices are not entirely absorbed in either pole. They point to a third, to an area that

4. Role played. In order to get a view of the entire spectrum of economic logics that Pikaro novels unfold, one has to broaden one's perspective. That's why the beats

In addition to the possibility of correcting the contestation, which is relevant to status law, there is an instrument for clarifying genetic ancestry without legal consequences in Section 1598a BGB.[30]

cc) To the Relevance of the principle of status truth

In the literature, the congruence of genetic and legal ancestry is repeatedly referred to as the "very dominant"[31] or "predominant"[32] Denotes assignment criterion. Even if this may seem so at first, a closer look reveals a different picture. Due to the possibilities of reproductive medicine, motherhood is split into genetic motherhood of the woman from whom the egg cell originates[33],

31 Helms in: Röthel/ Heiderhoff (ed.), Regulatory task father position: What can, what is allowed, what does the state want?, 2014, pp. 19, 21.

32 Palandt/ Brudermüller, introductory v. § 1591, Rn. 1.

33 Due to the possibility of a mitochondria donation, it is also possible to split the genetic motherhood between two women.

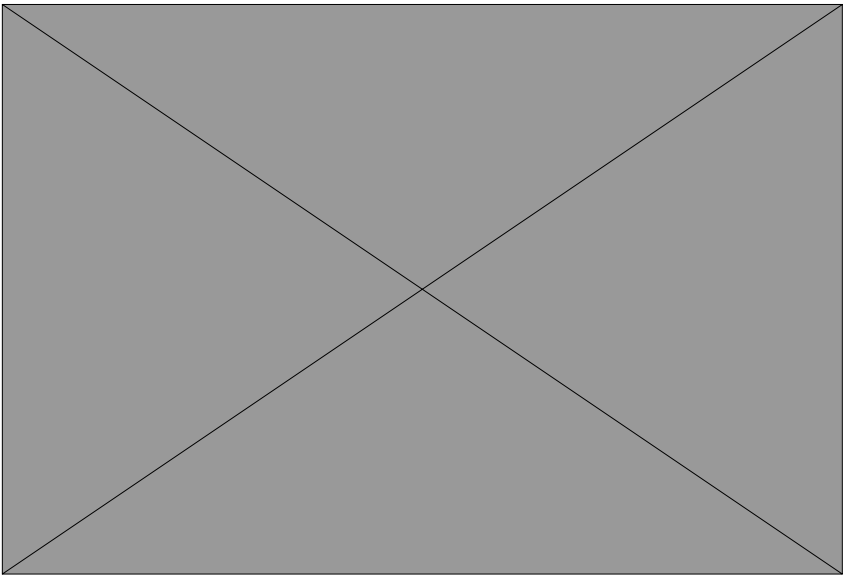

Fig. 1 Correction options for legal motherhood

Source: Federal Statistical Office, prisoners and persons in preventive detention according to the offense and according to the type of detention, 2018

Note: Federal Statistical Office, inventory of prisoners and those in custody, 2018, p. 30.

and biological motherhood of the woman who carried and gave birth to the child. When introducing Section 1591 of the German Civil Code, the legislature expressly decided in favor of legal motherhood for the birth mother, since only she has a physical and psychosocial relationship with the child during pregnancy and during and immediately after the birth.[34] Due to the lack of correction options for legal motherhood of the birth mother, the legislature quite consciously tolerates a permanent divergence between genetic and legal motherhood, contrary to the principle of status truth Fig. 1.

With regard to paternity, too, there are cases in which the legislature deliberately tolerates a permanent divergence between genetic and legal paternity. The genetic father's right of contestation is excluded according to § 1600

34 BT print. 13/4899, p. 82; In the course of the Embryo Protection Act of 13.12.1990, the Federal Government had spoken out against the proposal of the Federal Council to add the sentence "Descent from the mother is based on birth" to Section 1589 of the German Civil Code, as such a singular supplement that only serves the purpose of clarification of the Civil Code does not appear, BT-Drucks. 11/5460, p. 18, also below p.38.

II BGB if there is a social-family relationship between the legal father and the child.[35] Another case in which the legislature permanently tolerates a breakup has recently been added by the Sperm Donor Register Act of July 17, 2017.[36] Since the law came into force on July 1st, 2018, § 1600d IV BGB has regulated that a judicial determination of the sperm donor as the father in the case of heterologous sperm donation is not possible according to the requirements of the Sperm Donor Register Act. Also the exclusion of paternity contestation according to § 1600 IV BGB for the mother and the man after a consented heterologous fertilization could lead to a permanent disintegration of the genetic and legal paternity. Due to the child's continued right of appeal, a back door to the realization of the principle of status truth remains open.[37] The combination of the child's right of contestation and the exclusion of the judicial determination of the paternity of the sperm donor can in future lead to the position of the legal father remaining vacant, namely if the child successfully challenges the paternity of its only legal father, a judicial determination of the sperm donor but at the same time is excluded.[38] The same applies if the position of legal father has remained vacant from the start.[39]

The consideration of these system breaks[40] shows that - contrary to the constant emphasis on the special importance of genetic ancestry - it is not just the genetic truth that must always be depicted in the law of ancestry and

35 The trigger for the introduction of a right of contestation for the genetic, non-legal father was only the decision of the Federal Constitutional Court of April 9, 2003 - 1 BvR 1493/96, 1 BvR 1724/01, BVerfGE 108, 82, 99 ff.; Summary and criticism of the legislator's solution, e.g. at: MüKoBGB/ Wellenhofer, § 1600, Rn. 9 ff.

36 Law regulating the right to knowledge of parentage in the case of heterologous use of semen (Sperm Donor Register Act - SaRegG) of 17.07.2017, Federal Law Gazette IS 2513, 2518.

37 This right to challenge has not been abolished by the Sperm Donor Register Act, nor has an express decision by the legislature on whether or not an official sperm donor should be entitled to challenge paternity. On the criticism of the child's right of appeal: Wanitzek, FamRZ 2003, 730, 734 f.; Helms, FamRZ 2010, 1, 5 f.; Dethloff/ Gerhardt, ZRP 2013, 91; Wellenhofer, FamRZ 2013, 825, 829; Zypries/ Zeeb, ZRP 2014, 54, 55; see also: Spickhoff, ZfPW 2017, 257; different on the other hand: Voigt, Abstammungsrecht 2.0, 2015, p. 91 ff.; on the lack of exclusion from appeal by the sperm donor: Frie, NZFam 2018, 817, 822 f.; Löhnig/ Runge-Rannow, FamRZ 2018, 10, 14.

38 The Federal Council has pointed out this possibility (BT-Drucks. 18/11291, p. 41 f.), The Federal Government nevertheless rejected an exception regulation on the grounds that a comparable regulation already exists with § 1600 V BGB and that in the case of When the legal father died, there was also no "surrogate father" available for the child, with reference to the willingness to continue to donate and the easier contact made by the donor children (BT-Drucks. 18/11291, p. 43).

39 For example, due to a sperm donation to a single woman or to an unmarried woman without a partner willing to be recognized.

40 Further system breaks, for example, in: Reuss, Theory of a Parenthood Law, 2018, pp. 139 ff.

at all costs.[41] For reform considerations, on the other hand, the reasons why the legislature tolerates a permanent divergence of legal and genetic parenthood are more interesting. The overriding goal in these cases seems to be to establish and protect a direct, stable and permanent association between the child and those persons who have some kind of bond with the child. Even if the congruence of genetic and legal descent is one of the goals of the law of descent, in future it should be considered whether the focus of the legal ancestry allocation criteria should rather be shifted to the reasons for which the legislature tolerates a permanent divergence of legal and genetic parenthood.

b) Status clarity

As just shown, the right of descent does not only want to depict genetic truth, but pursues - on a par with it - other goals. With the choice of the allocation criteria birth, marriage and recognition in §§ 1591, 1592 No. 1, 2 BGB, the legislature has deliberately opted for criteria that are externally recognizable and therefore easily identifiable by everyone (status clarity).[42] § 1591 BGB finally regulates maternity, § 1592 BGB finally regulates the facts of paternity. The criteria of the regulations - and here the interlocking of the various principles of parentage becomes clear - are intended to make a congruence of genetic and legal parentage probable without necessarily requiring a time-consuming and costly genetic parentage test to be carried out before or immediately after the birth of the child.[43] Status clarity also means the clarity of all parties involved as to which legal status exists, and thus also serves the purpose of legal security.[44] This goal is supported by the regulations of civil status law, according to which the registry offices keep a birth register (§§ 3 I No. 3, 21 PStG), which can be inspected if a legal or legitimate interest is substantiated (§ 62 I, II PStG).

41 Already in this direction: Heiderhoff, FamRZ 2010, 8, 11 ff.; Helms, FamRZ 2010, 1, 4 ff.; also indicated in: Spickhoff/ Spickhoff, title 2. Descent, preliminary remark, marginal 1 f.; MüKoBGB/ Wellenhofer, preliminary remarks on the right of parentage, Rn. 27 f.

42 Gernhuber/ Coester-Waltjen, Family Law, 2010, § 52 Rn. 1.

43 Wanitzek, Legal Parenthood in Medically Assisted Reproduction, 2002, p. 152 f.; Gernhuber/ Coester-Waltjen, Family Law, 2010, § 52 Rn. 1; Helms in: Röthel/ Heiderhoff (ed.), Regulatory task father position: What can, what is allowed, what does the state want?, 2014, pp. 19, 27 f.; BeckOGK BGB/ Haßfurter, § 1591, Rn. 7; MüKoBGB/ Wellenhofer, preliminary remarks on the right of parentage, Rn. 21; Dethloff, Family Law, 2018, § 10 Rn. 1.

44 Dethloff, Family Law, 2018, § 10 Rn. 1.

aa) Maternity

Section 1591 of the German Civil Code (BGB) is linked to birth for maternal descent. This offers an easily recognizable point of contact, promises quick and uncomplicated assignment to at least one parent and is generally recognized as a publicity feature.[45] In the majority of cases, this legal ancestry also corresponds to the genetic ancestry.

bb) Fatherhood

There is no such obvious criterion as that of birth for fatherhood. Bringing genetic and legal descent into harmony is naturally more difficult there. The father establishes his genetic paternity through the procreation of the child, which is currently not taking place in public and is therefore not externally recognizable for everyone. In order to do justice to the principle of status clarity even in the event that several fathers come into consideration, the legislature has therefore chosen criteria in Section 1592 of the German Civil Code that enable quick allocation.

(1) The three Paternity *of § 1592 BGB*

Section 1592 No. 1 BGB stipulates that the husband of the birth mother is the father of the child. Because of the entry in the marriage register required by Section 15 of the PStG, marriage is a fact that can be proven in a document and ensures that it can be assigned quickly and easily.[46] According to § 1593 S. 1 BGB, the mother's husband is also the legal father of the child if he has already died at the time of the child's birth, but the child is born within 300 days of his death. If a child is born into an illegitimate stable cohabitation, neither the presumption of § 1592 No. 1 BGB nor that of 1593 BGB applies, although genetic paternity appears likely in these cases as well.[47] This is justified with the lack of formal requirements for their justification, which means - in contrast to a marriage - there is no externally recognizable connection point Fig. 2.[48]

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45 Schlüter, BGB-Familienrecht, 2012, Rn. 267; MüKoBGB/ Wellenhofer, § 1591, Rn. 4 f.; BeckOGK BGB/ Haßfurter, § 1591, Rn. 7.

46 Gernhuber/ Coester-Waltjen, Family Law, 2010, § 52 Rn. 27; MüKoBGB/ Wellenhofer, preliminary remarks on the right of parentage, Rn. 22.

47 BT print. 13/4899, p. 52; Gernhuber/ Coester-Waltjen, Family Law, 2010, § 52 Rn. 27; Spickhoff/ Spickhoff, BGB § 1592, Rn. 2; Scholz/ Kleffmann/ Motzer/ Eckebrecht, Part Q Right of Origin, Rn. 20.

48 BT print. 13/4899, p. 52: "What speaks against legally regulated paternity is that in these cases there is no clear connection point, in particular because even if two people live together, the

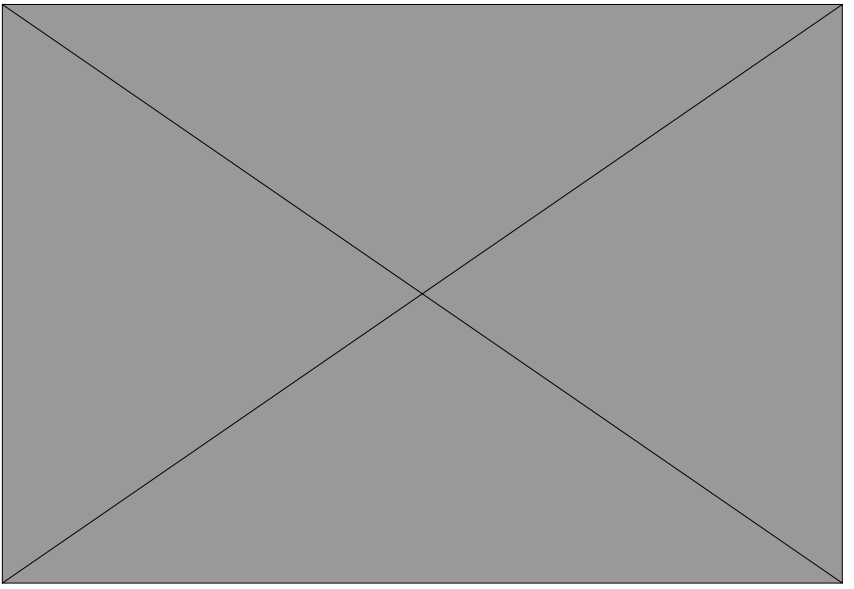

Fig. 2 Paternity by recognizing fixed options for correcting legal motherhood

§ 1592 No. 2 BGB defines paternity through recognition. With her, the hostility to conditions according to § 1594 III BGB as well as the public certification required according to § 1597 I BGB take into account the principle of status clarity.[49]

The third way to legal paternity leads according to § 1592 No. 3 BGB via the judicial determination. Due to the requirement of a formal court procedure, at the end of which there is a legally binding court order, the principle of status clarity is also taken into account here.[50]

1. Since, in principle, several novels by Grimmelshausen offer themselves as objects of investigation for the question developed here, it does not go without saying that the strange

existence of a illegitimate relationship cannot be clearly established from the outside."; BeckOGK BGB/ Balzer, § 1592, Rn. 67.

49 BeckOGK BGB/ Balzer, § 1592, Rn. 20.

50 BeckOGK BGB/ Balzer, § 1592, Rn. 104.

2. Springinsfeld is selected. Before the reasons for this, which cannot be looked for anywhere else than in the text itself, are worked out through reading on the following pages, deserve it
3. Another aspect taken into account: In 2008 Nicola Kaminski stated with a view to the Springinsfeld that "the text-analytically consistent handling of its intricate texture or even
   - a close reading, with a few exceptions, remains a desideratum. Since then, some essays on this novel have appeared; a monograph
   - which tries to live up to this claim is still missing
   - Kaminski attests the Springinsfeld an "exceptional status" insofar as the "polyperspectivism" that results from the synopsis of all simplician novels,
     i. "Structures the text itself". This narrative poly-perspective corresponds to an economic one
     ii. Maximilian Bergengruen identifies in the novel "[d] rei types of money acquisition", which he associates with Springinsfeld, Philarchus and Simplicius. There are, however, it should be added,
     iii. at least five primary ways of making money that will be contrasted. Those of the Leyrerin, Springinsfeld's wife
        1. and the courage that Bergengruen only touches on has to be added
        2. In contrast to the Simplicissimus Teutsch, at the beginning of which the "telling of the House of Knan defines the (pseudo-) genealogical foundation of simplician identity"
        3. Springsinfeld literally sidelined references to the economy
           - This impression arises not only at the beginning but also at the end of the novel
           - Here as there it is about inclusion in a household. In the opening scene, Philarchus is waiting
           - "In a noble Mr. Hof" (161) an answer to his request to become "Mr. Schreiber" (163)
             i. The request is refused, however, and Philarchus is expelled from the house
             ii. One does not learn anything about the inner workings and the structures of this house. Rather, the novel unfolds out of the denied integration

iii. At the end, on the other hand, Simplicius invites Springinsfeld to "auff seine Hoff/ bey him out of winter" (294), but this stay is noticeably opaque
   - What goes on in the yard, whether Springinsfeld actually arrives there and shortly afterwards how it is rumored
   - dies, must be considered questionable because Philarchus can only refer to hearsay ("as I have been told since then")
   - Because of the lack of information, it is not possible to get a picture of this economy either

- The novel begins and ends with an unhoused Philarchus while Springinsfeld

4. appears as external for almost the entire narrative time, describes

In addition, the blocking effect of the facts of paternity among each other resulting from § 1599 I BGB also realizes the principle of status clarity, in that it allows the legal status assignment to only one man.[51] If, for example, the husband's paternity exists, this must first be eliminated by an ex tunc decision to challenge (§§ 182, 184 FamFG) before another man can recognize paternity or the court can determine another paternity.

(2) Excursus: No (analogous) application to the wife

Since October 1st, 2017, marriage can also be entered into by two people of the same sex.[52] This inevitably raises the question of an (analogous) application of § 1592 No. 1 BGB to the wife of the birth mother.

Year	**Total offenses**	**Total offenses**
	Total suspects	**Suspects**
1998	2,319,895	119 308 (5.14%)
2008	2,255,693	148 142 (6.57%)
2018	2,051,266	155 832 (7.60%)

51 BeckOGK BGB/ Reuss, § 1599, Rn. 9; execute on the blocking effect: MüKoBGB/ Wellenhofer, § 1599, Rn. 2 ff.

52 Law on the introduction of the right to marry for persons of the same sex of July 20, 2017, Federal Law Gazette I p. 2787.

Since a woman is also not a man in the legal sense and therefore cannot be a father, a direct application of § 1592 No. 1 BGB to the wife is ruled out due to the clear wording.[53]

- In a second step it is to be analyzed to what extent the observed practices and
- Participate strategies in discourses that, from today's perspective, are not immediately considered to be economically relevant
  - be perceived. If the underlying premise that the concept of a bipolar
  - organized economic thinking of the premodern, some of the economic modes appearing in the novel
  - cannot adequately grasp, contemporary sources must be consulted
    - It is therefore about the always virulent question of how to relate text and context to one another
    - The present work seeks to solve this question by drawing on the considerations that
    - American New Historicism under the direction of Stephen Greenblatt developed Das
      - The theoretical foundation on which New Historicism is based is the often cited chiasmus of "the historicity of texts" and "the textuality of history" from Louis Montrose
- On the one hand, he claims that all kinds of texts are entangled in the self-spun

However, it remains to be discussed whether Section 1592 No. 1 BGB should henceforth be applied analogously to the wife of the birth mother. The objection to an analogy is that it is already missing as the unintended loophole. For example, the Federal Court of Justice recently argued that the legislature wanted to take into account the socially changed understanding of marriage when opening up marriage to people of the same sex and also had in particular the disadvantage with regard to the lack of joint adoption rights in mind.[54] The fact that he inadvertently failed to abolish the existing

53 BGH, decision of 10.10.2018 - XII ZB 231/18, FamRZ 2018, 1919, 1920; Previously: OLG Dresden, decision of April 27, 2018 - 3 W 292/18, FamRZ 2018, 1165, 1166; KG Berlin, decision of February 9, 2018 - 3 UF 146/17, FamRZ 2018, 1925, 1927; also: BeckOGK BGB/ Balzer, § 1592, Rn. 41; Binder/ Kiehnle, NZFam 2017, 742, 743; probably also: Engelhardt, NZFam 2017, 1042, 1047.

54 BGH, decision of 10.10.2018 - XII ZB 231/18, FamRZ 2018, 1919, 1920; see also: BT-Drucks. 18/6665, pp. 8, 11; BT print. 18/12989, p. 2.

Table 1. Suspects in 1998, 2008, 2018

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1998	2,319,895	119 308 (5.14%)
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Source: 2018 police crime statistics, total suspects by age from 1987 onwards, table 20.
Note: 2018 police crime statistics, total suspects by age from 1987 onwards, table 20.

differentiation in the law of parentage cannot be assumed, however.[55] In addition, there is also a lack of comparable interests. § 1592 No. 1 BGB is based on the idea that the mother's husband is likely to have a congruence of genetic and legal parenting, which, however, cannot be assumed for the mother's wife.[56]
The proponents of an analogous application of § 1592 No. 1 BGB to the mother's wife argue that the legislature had sought a complete equal treatment of heterosexual and homosexual couples by opening up marriage and, due to the focus on the unequal treatment under adoption law, merely overlooked the right of parentage have.[57] If, however, joint adoption by same-sex spouses is possible from now on, there is no apparent reason not to allow joint, legally recognized parenthood as a result of the birth of a child in a same-sex marriage.[58]

- historically created, insofar contingent web of meaning of the culture that produced it. On the other hand, he refers to the narrative constitution of history

55 BGH, decision of 10.10.2018 - XII ZB 231/18, FamRZ 2018, 1919, 1920, with reference to the establishment of the working group on the right of parentage; also: KG Berlin, decision of 09.02.2018 - 3 UF 146/17, FamRZ 2018, 1925, 1927.
56 So: OLG Dresden, decision of April 27, 2018 - 3 W 292/18, FamRZ 2018, 1165, 1166, confirmed by: BGH, decision of October 10, 2018 - XII ZB 231/18, FamRZ 2018, 1919; KG Berlin, decision of February 9, 2018 - 3 UF 146/17, FamRZ 2018, 1925, 1927; Schmidt, NZFam 2017, 832, 833; BeckOGK BGB/ Balzer, § 1592, Rn. 45; Dethloff, Family Law, 2018, § 10 marginal number 7.
57 Binder/ Kiehnle, NZFam 2017, 742, 743; Engelhardt, NZFam 2017, 1042, 1047; Löhnig, NZFam 2017, 643, 644.
58 Binder/ Kiehnle, NZFam 2017, 742, 743.

- which, however, are not solely based on their types of representation, be it contemporary sources
- or scientific representations, the central idea is rather that "sources and documents
  - always results of the selection, the interpretation, the textual communication[are]
  - There is therefore no 'authentic' past, just a myriad of stories
  - which first constitute the story and make it accessible from this point of view
    - the historical background of a (literary) text is not a given, but appears

(aaa) Excursus: No (analogous) application to the wife

When discussing the motives of the legislature, the political circumstances at the time should also be taken into account, which ultimately led to the decision of the law to open marriage. In the course of the 18th legislative period, for example, there were various legislative proposals to open up marriage to people of the same sex, the deliberations of which, however, were postponed several times.[59] A statement by Angela Merkel in an interview on June 27, 2017 ultimately led to the fact that in the last week of the legislative period on July 30, 2017, the members of the Bundestag were free to decide on the law on the opening of marriage according to their conscience - and accordingly without any parliamentary group.[60] It therefore appears questionable to what extent an analogy can be argued with the will of the legislature, especially since the bilateral law did not contain a regulatory plan.[61]

It therefore appears questionable to what extent an analogy can be argued with the will of the legislature, especially since the bilateral law did not contain a regulatory plan Fig. 3.

59 BT print. 18/8 of October 23, 2013; BT print. 18/5098 of June 10, 2015; BT print. 18/6665 of 11/11/2015.

60 Regarding the process: Mangold, Federal Agency for Civic Education from August 9th, 2018 (http://www.bpb.de/gesellschaft/ gender/ homosexualitaet/ 274019/ stationen-der-ehe-fuer-alle-in-Deutschland, most recently: March 29th.2019).

61 See Law on the Introduction of the Right to Marriage for Persons of the Same Sex of July 20, 2017, Federal Law Gazette I p. 2787.; Also referring to this: Löhnig, NZFam 2017, 643, 644.

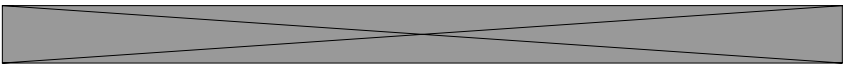

Fig. 3 Paternity by recognizing fixed options for correcting legal motherhood

(i) From the nature of the right of parentage

An analogous application of § 1592 No. 1 BGB to the wife of the birth mother is therefore ruled out. The discussion nevertheless contains an appeal to the legislature for action - also about debates about wives as "analogous men"[62] to end.[63]

It therefore appears questionable to what extent an analogy can be argued with the will of the legislature, especially since the bilateral law did not contain a regulatory plan.

It therefore appears questionable to what extent an analogy can be argued with the will of the legislature, especially since the bilateral law did not contain a regulatory plan.

c) Status constancy

Once the status has been determined, there is an interest in ensuring that it is as permanent as possible and that it cannot be easily changed (status consistency[64]).[65] For this reason, the legal status of a child is already established at the time of birth and can only be corrected under the conditions of the contestation procedure (§§ 1599 ff. BGB).[66] Since different legal relationships result from the assignment of a civil status, on which a change in the civil status can in turn have legal effects (e.g. with regard to maintenance law or statutory inheritance law), the principle of permanent status also pursues the goal of legal certainty.[67]

62 Löhnig, NZFam 2017, 643, 644.

63 Bills are already being introduced, such as the draft of a law to adapt the regulations on parentage to the law introducing the right to marry for persons of the same sex, BT-Ducks. 19/2665.

64 Terms used synonymously: "Status security" (such as: BeckOGK BGB/ Haßfurter, § 1591, Rn. 7; MüKoBGB/ Wellenhofer, preliminary remarks on the right of origin, Rn. 21, both of which link the term closely to the truth of the status, which is based on the current understanding of the stability of the status is not so important); "Status stability" (for example: Voigt, Abammungsrecht 2.0, 2015, p. 38 f.).

65 Gernhuber/ Coester-Waltjen, Family Law, 2010, § 52 Rn. 4; Helms in: Röthel/ Heiderhoff (ed.), Regulatory task father position: What can, what is allowed, what does the state want?, 2014, pp. 19, 28; Voigt, Law of Origin 2.0, 2015, p. 38 f.; Reuss, Theory of a Parenthood Law, 2018, p. 149; Sanders, Mehrelternschaft, 2018, p. 11.

66 Wanitzek, Legal Parenthood in Medically Assisted Reproduction, 2002, p. 152 ff.; Gernhuber/ Coester-Waltjen, Family Law, 2010, § 52 Rn. 4; Reuss, Theory of a Parenthood Law, 2018, p. 150.

67 Reuss, Theory of a Parenthood Law, 2018, p. 149.

Table 2. Suspects in 1998, 2008, 2018

Year	Total offenses	Total offenses
	Total suspects	**Suspects**
1998	1. The two sketched 2. on the role of economics in Grimmelshausen's differences, a number of recent essays that work with contemporary sources, roughly assign to one pole or the other. On the one hand, Maximilian underpins it	1. The two outlined poles 2. on the role of the economy in Grimmelshausen 3. Differences, a number of essays a. Bergengruen his reasoning b. the pieces of text that c. What the business hist
2008	• Things[...] that don't belong there either ". • Because these would have "their • So has most • and "skill" complains, proves • Areas of knowledge, which in the 17th	• Eich explain this solely through the incompetence of the authors • Because these would have "their • So has that • and "skill

Source: 2018 police crime statistics, total suspects by age from 1987 onwards, table 20.

Source: 2018 police crime statistics, total suspects by age from 1987 onwards, table 20.

aa) Maternity

Legal motherhood according to Section 1591 of the German Civil Code (BGB) is incontestable and - outside of adoption - no corrections are available, which fully complies with the principle of permanent status.[68]

- historically created, insofar contingent web of meaning of the culture that produced it. On the other hand, he refers to the narrative constitution of history
- which, however, are not solely based on their types of representation, be it contemporary sources
- or scientific representations, the central idea is rather that "sources and documents
- in turn as a complex of interrelated texts that have to be interpreted

68 See BT-Drucks. 14/4899, p. 82 f.

bb) Fatherhood

The paternity can be contested according to §§ 1599 ff. BGB. By defining the requirements to be met, the principle of status stability is taken into account. The contestation of paternity is limited in time (§ 1600b BGB), can only be made by a finally determined group of people (§ 1600 I BGB) and must always take place in the context of legal proceedings (§ 169 No. 4 FamFG).[69] In addition, the principle of permanent status can also be seen in the exclusions from contestation. In the case of a consented heterologous fertilization, the challenge of legal paternity by the mother and the legal father himself is excluded - only the child still has the right to challenge.[70] The exclusion of contestation by the purely genetic father in accordance with Section 1600 II of the German Civil Code (BGB) also serves to maintain the status, as it grants the solidified social-family relationship of the legal father to the child priority over the truth of ancestry.[71] At the same time, it can also be seen that the current law of descent also takes social criteria into account when assigning descent.[72]

d) Intermediate result

From the nature of the right of descent as a status right, three basic principles can be derived, the realization of which the right of descent in the legal parent-child assignment aims to achieve. These principles are not in a hierarchical superordinate/ subordinate relationship, but rather interlock. Not every principle is equally important for every legal parentage and therefore does not always have to be weighted equally.

2. Scope for decision-making in the law of parentage

The right of parentage is a mandatory right and as such is fundamentally beyond the control of those involved.[73] Legal positions related to parentage law are fundamentally indispensable and cannot be transferred to other persons

69 Gernhuber/ Coester-Waltjen, Family Law, 2010, § 52 Rn. 4; to the reasons behind the time limit: BT-Drucks. 14/4899, p. 87 f.

70 BT print. 14/2096, p. 7; Dethloff, Family Law, 2018, § 10 Rn. 32; BeckOGK BGB/ Reuss, § 1600, Rn. 15; MüKoBGB/ Wellenhofer, § 1600, Rn. 1.

71 BeckOGK BGB/ Reuss, § 1600, Rn. 80; i. Erg. Probably also: MüKoBGB/ Wellenhofer, § 1600, Rn. 14 et seq.

72 On solidarity in parentage law: Heiderhoff, FamRZ 2010, 8, 11 ff.

73 Gernhuber/ Coester-Waltjen, Family Law, 2010, § 51 Rn. 12; M. Lipp in: Schwab/ Vaskovics (Ed.), Pluralization of Parenthood and Childhood, 2011, pp. 121, 126; Dethloff, Family Law, 2018, § 10 Rn. 2; Sanders, Mehrelternschaft, 2018, p. 11.

by agreement or actual assumption of responsibility by third parties.[74] At the same time, the right of parentage allows the parties involved, within clearly defined limits, certain scope for decision-making and thereby also allows voluntary criteria to come into effect when assigning parentage.

a) Parentage mapping by *Declaration of intent*

The adoption law regulations of §§ 1741 ff. BGB belong to the extended group of the right of descent.[75] Allocation according to the law of parentage through declarations of intent is inherent to them. However, the parentage law provisions of §§ 1591-1600d BGB also know such an assignment through a declaration of intent. While the will to parenthood is not taken into account with regard to motherhood, it is decisive in connection with the acknowledgment of paternity according to § 1592 No. 2 BGB.[76] So it is a free decision of the man to establish a legal paternity by a declaration of recognition according to § 1594 BGB.[77] With the mother's declaration of consent required in accordance with Section 1595 I of the German Civil Code, she is also included in the decision on the establishment of legal paternity.[78] In the case of the judicial determination of paternity, the parties involved (Section 172 FamFG) have a scope of decision-making due to the application required to initiate the procedure (Sections 23, 171 FamFG).[79] In addition, there is finally also § 1599 II BGB (so-called change of status accessory to divorce[80]) a regulation that gives those involved leeway to decide on the parentage of the child. If a child is born after the application for divorce has been pending, but before the divorce decision becomes final, then - instead of the actual assignment according to § 1592 No. 1 BGB - a legal assignment to the man recognizing the paternity can take place, if all parties agree to this assignment.[81]

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74 M. Lipp in: Schwab/ Vaskovics (Ed.), Pluralization of Parenthood and Childhood, 2011, pp. 121, 126; Reuss, Theory of a Parenthood Law, 2018, p. 153.

75 Reuss, Theory of a Parenthood Law, 2018, p. 129 f.; MüKoBGB/ Wellenhofer, § 1589, Rn. 1.

76 See also: Helms in: Röthel/ Heiderhoff (ed.), Regulatory task father position: What can, what is allowed, what does the state want?, 2014, pp. 19, 24 f.

77 On the legal nature of the declaration of recognition: Gernhuber/ Coester-Waltjen, Familienrecht, 2010, § 52 Rn. 42; BeckOGK BGB/ Balzer, § 1594, Rn. 3; Palandt/ Brudermüller, § 1594, Rn. 4; MüKoBGB/ Wellenhofer, § 1594, Rn. 4.

78 On the legal nature of the declaration of consent: Gernhuber/ Coester-Waltjen, Familienrecht, 2010, § 52 Rn. 46; BeckOGK BGB/ Balzer, § 1595, Rn. 14 ff.; MüKoBGB/ Wellenhofer, § 1595, Rn. 8.

79 Also: Reuss, Theory of a Parenthood Law, 2018, p. 157 mw N.

80 BeckOGK BGB/ Reuss, § 1599, Rn. 1; MüKoBGB/ Wellenhofer, § 1599, Rn. 1.

81 On this: Gernhuber/ Coester-Waltjen, Familienrecht, 2010, § 52 Rn. 33 ff.; Dethloff, Family Law, 2018, § 10 marginal number 12; on the criticism of the regulation at: BeckOGK BGB/ Reuss, § 1599, Rn. 29 ff.; MüKoBGB/ Wellenhofer, § 1599, Rn. 69 f.

b) Elimination of a lineage assignment that has taken place once

In connection with the elimination or correction of a parentage that has already been assigned to a legal father, the contestation regulations of §§ 1599 ff. BGB give the parties a certain amount of leeway. These regulations are - besides the change of status related to the divorce (§ 1599 II BGB) and the adoption regulations (§§ 1741 ff. BGB) - the only instrument for eliminating parentage allocation.[82] This restriction of the elimination of a parentage assignment that has taken place only to the instrument of contestation serves in particular to maintain status.[83] Furthermore, elimination is only possible by the persons involved in the specific parentage assignment - mother, legal and genetic father as well as the child (cf. § 1600 I BGB). In particular, the state has no right of appeal.[84]

c) Intermediate result

Even if legal positions related to parentage law are therefore generally not at the disposal of those involved, the right of parentage has clearly limited exceptions in which there is scope for decision-making both in the establishment and in the elimination of parentage assignments.

III. The "two parents" principle

The right of parentage basically assigns a child to a legal mother and a legal father. With regard to the mother, this is ensured by the exclusive and incontestable assignment of legal motherhood to the birth mother in accordance with Section 1592 of the German Civil Code (BGB).[85] The reciprocal blocking effect that the elements of paternity unfold, on the other hand, guarantee the assignment to only one legal father.[86] The parentage regulations of §§ 1591-1600d BGB provide for the parenthood of two different sexes, from which the concept of the "one father" and "one mother" principle has

82 Gernhuber/ Coester-Waltjen, Family Law, 2010, § 52 Rn. 6; Dethloff, Family Law, 2018, § 10 Rn. 2; BeckOGK BGB/ Reuss, § 1600, Rn. 7 ff.; MüKoBGB/ Wellenhofer, § 1600, Rn. 1.

83 P. Above p. 21.

84 More on this: Reuss, Theory of a Parenthood Law, 2018, p. 158 f.

85 See BT-Drucks. 13/4899, p. 82; on the incontestability of motherhood: BeckOGK BGB/ Haßfurter, § 1591, Rn. 96 ff.; MüKoBGB/ Wellenhofer, § 1591, Rn. 25, 56 ff.

86 Gernhuber/ Coester-Waltjen, Family Law, 2010, § 52 Rn. 5; BeckOGK BGB/ Balzer, § 1592, Rn. 23; MüKoBGB/ Wellenhofer, § 1592, Rn. 21.

developed.[87] If you only look at the right of parentage, this term makes sense. With a view to adoption law, which now enables a child to be legally assigned to two mothers or two fathers as a result of (stepchild) adoption by same-sex (spouse) partners[88], however, the concept of the "two parents" principle is preferable.[89]

In contrast to the principles that result from the nature of the right of descent as a status right, behind the "two-parent" principle there are more legal-political considerations than that it is an inevitable consequence of the status-related nature of the right of descent.[90] As Sanders clearly shows in her detailed description of the development of descent and parenthood since 1900, legal parenting of more than two people was still conceivable for the Civil Code in 1900.[91] Your remarks show that this principle only established itself over the years, through the Childhood Law Reform Act of 1998[92] was strengthened and is still supported today by the fact that only two of several potential parents are ever legally recognized.[93] The extent to which this principle should continue to apply in the future will (rightly) have to be discussed further.[94]

IV. And the best interests of the child?

Finally, the question arises to what extent the best interests of the child can or should be counted among the basic principles of the right of parentage.

87 The term appears, for example, in: Gernhuber/ Coester-Waltjen, Familienrecht, 2010, § 52 Rn. 5; Röthel in: Röthel/ Heiderhoff (Ed.), Regulatory Task Father Position: What can, what is allowed, what does the state want?, 2014, pp. 89, 105; Reuss, Theory of a Parenthood Law, 2018, p. 160 ff.

88 For joint adoption - meanwhile also by same-sex married couples: § 1741 II 2 BGB; for stepchild adoption - also for same-sex married couples: § 1741 II 3 BGB; for stepchild adoption within a civil partnership: § 9 VII LPartG.

89 Likewise: Working Group on Parent Law, Final Report, 2017, p. 29; Reuss, Theory of a Parenthood Law, 2018, p. 161 ff.; Sanders, Mehrelternschaft, 2018, p. 33 ff., Which uses the phrase "principle of" two-parenthood ".

90 Reuss, Theory of a Parenthood Law, 2018, p. 161; see also: BVerfG, decision of April 9, 2003 - 1 BvR 1493/96, 1 BvR 1724/01, BVerfGE 108, 82, 101.

91 Sanders, Mehrelternschaft, 2018, p. 37 ff.

92 See BT-Drucks. 13/4899, p. 82 ff.

93 Sanders, Mehrelternschaft, 2018, p. 99 ff.

94 S. on this discussion besides Sanders also: Kaufhold in: Röthel/ Heiderhoff (ed.), Regulatory task mother position: What can, what is allowed, what does the state want?, 2016, p. 87, p. 87 ff.; Plettenberg, father, father, mother, child - a plea for legal multiple fatherhood, 2016; Working group on parentage law, final report, 2017, p. 75 ff.; in this work below p.247.

Table 3. BGB it was pointed out that the concept of descent contained in § 1589 BGB

Credit limit of the current	Credit limit of the current

The extent to which this principle should continue to apply in the future will (rightly) have to be discussed further.
• On the role of economics in Grimmel
• Differences, a number of essays jü
  • Bergengruen his reasoning
  • of the pieces of text, the Grimmels House
  • What the economic historian Bert
	1. The two outlined pole instructions
	2. on the role of economics in Grimmel
	3. Differences, a number of essays jü
	  a. Bergengruen his reasoning
	  b. of the pieces of text, the Grimmels House
	  c. What the economic historian Bert

Source: Proponents of an analog application

1. The concept of the best interests of the child

There is no legal definition in any German law for the concept of child welfare. Nonetheless, the best interests of the child are the key concept in constitutional law when it comes to the area of tension between the child's right to self-determination, parental rights (Art. 6 II 1 GG) and the guardianship of the state (Art. 6 II 2 GG) - even if the term in Basic Law does not appear - as well as in family law and there in particular in the area of parental custody (§§ 1626 ff. BGB).[95] It is either a general clause[96] or as an indefinite legal term[97] classified, which is why no generally applicable formula has yet been established. Rather, the term is constantly being concretized and developed through case law and - especially with regard to individual aspects of the best interests of the child - through some legal regulations, in particular from the area of parental custody. For example, § 1666 I 1 BGB differentiates between the physical, mental and emotional well-being of the child, according to § 1626 III 1 BGB, dealing with both parents is generally for the good of the child, and according to § 1631b I 2 BGB, it includes the best interests of the child Avoidance of considerable endangerment to oneself and others and emphasizes § 1632 IV BGB the essential importance of stable and continuous care and upbringing relationships for the well-being of the child.[98] From the synopsis of these regulations in connection with parental custody, it can therefore generally be stated that the self-interests of the parents have to take precedence over those of the child and that behavior is in the best interests of the child when it is probably best suited to the individual case Promote the integrity and development of the child.[99] The concept of the best interests of the child is further specified by the case law of the Federal Constitutional Court on parental rights from Art. 6 II of the Basic Law, which pursues the goal of bringing up a child in such a way that it can develop into a "personality that can develop for its own sake knows how to be respected and learns to respect himself and others "[100]. This aspect of the best interests of the child

95 Dettenborn, Kindwohl und Kindwille, 2014, p. 48; Wapler, Children's Rights and Child Welfare, 2015, p. 89; Brosius-Gersdorf in: Heimbach-Steins/ Riedl (ed.), Child welfare between entitlement and reality, 2017, p. 73.

96 Coester, The child's welfare as a legal concept, 1983, p. 162 ff.; Coester, NZFam 2016, 577; Dethloff, Family Law, 2018, § 13 Rn. 2; BeckOK BGB/ Veit, § 1666, Rn. 14 f.

97 Wapler, Kinderrechte; jurisPK BGB/ Poncelet/ Onstein, § 1666, Rn. 13.

98 Regarding the latter: BeckOK BGB/ Veit, § 1666, Rn. 14; on the problem of concretising the concept of the child's welfare: Hieb, The split motherhood in the mirror of German constitutional law, 2005, p. 143 f.

99 See Schwab, Familienrecht, 2018, Rn. 798.

100 BVerfG, judgment of April 1st, 2008 - 1 BvR 1620/04, BVerfGE 121, 69, 94; see also: BVerfG, decision of June 27, 2008 - 1 BvR 311/08, BVerfGK 14, 28.

can also be found in Section 1 I of Book VIII of the Social Code. Overall, however, it should be noted that a generally applicable positive definition of the best interests of the child is hardly possible. Rather, it seems preferable to understand the term with a view to the subject complex in question and its specific aspects related to this.[101]

2. The best interests of the child in the right of parentage

The concept of the best interests of the child appears in the parentage regulations of §§ 1589-1600d BGB only in § 1598a III BGB and § 1600a IV BGB. The best interests of the child in connection with the clarification of the biological descent according to § 1598a III BGB then play a role if such a significant impairment of the well-being of the minor child would be justified and is in the context of the contestation of paternity according to § 1600a IV BGB only in the In the rare exceptional case, it takes into account that the legal representative should dispute. In other places, the applicable parentage law does not provide for a specific child welfare test.

The best interests of the child are of major importance within the framework of the adoption law regulations (cf. for example § 1741 I 1 BGB), which are also included in the broader group of the right of parentage.[102]The reasons for this lie in particular in the function of the right of parentage compared to that of adoption and the timing of their allocation decisions. While the right of parentage establishes an initial legal parent-child assignment directly at birth, the right of adoption changes an already existing legal assignment.[103] A first-time parentage assignment can therefore only fall back on abstract, general considerations of the best interests of the child from the ex ante perspective, while in the case of an adoption decision that changes the parentage, a concrete, individual consideration of the child's best interests with a view to the family of origin and the adopting family is possible.[104] With regard to the right of parentage, it can therefore be stated that the best interests of the child in the sense of a specific examination of the best interests of the child, as is elementary in the law of parental custody, for example, is of only secondary

101 Likewise: Hieb, The split motherhood in the mirror of German constitutional law, 2005, p. 143 f.
102 For example: Helms in: Röthel/ Heiderhoff (Ed.), Regulatory task father position: What can, what is allowed, what does the state want?, 2014, pp. 19, 20 f.; BeckOGK BGB/ Löhnig, § 1741, Rn. 4 ff.; MüKoBGB/ Maurer, § 1741, Rn. 71 ff.
103 Gernhuber/ Coester-Waltjen, Family Law, 2010, § 68, Rn. 1.
104 Working group on parentage law, final report, 2017, p. 28 f.; Reuss, Theory of a Parenthood Law, 2018, p. 249.

importance.[105] In addition, the best interests of the child do not seem to be counted among the classic basic principles on a regular basis.[106] At the same time, the question arises as to whether the parentage is not at least "abstract and general considerations of child[107]play a role. The basic principles of the right of parentage presented above are therefore to be considered below from the point of view of abstract, general considerations of the best interests of the child.

a) Status truth

A legal assignment of the child to its genetic parents has the advantage for the child that it knows its genetic ancestry and can use this knowledge, for example, with regard to possibly existing hereditary diseases. Knowledge of one's own origin and descent also plays an important role in the development of identities in children and young people.[108] In addition, it is argued that the genetic parents feel responsible for the child in case of doubt and are ready to actually take on this responsibility.[109] Nonetheless, in this context it is rightly pointed out that, in case of doubt, a legal assignment to the genetic parents takes place even if they prove to be unsuitable as parents.[110] Even if a legal assignment to the genetic parents does not conflict with the best interests of the

105 So also: Helms in: Röthel/ Heiderhoff (Ed.), Regulatory Task Father Position: What can, what is allowed, what does the state want?, 2014, pp. 19, 21; Heiderhoff, NJW 2016, 2629, 2630.

106 For example, the list is missing from: Gernhuber/ Coester-Waltjen, Familienrecht, 2010, § 52 Rn. 1 ff; Voigt, Law of Origin 2.0, 2015, p. 37 ff.; Reuss, Theory of a Parenthood Law, 2018, p. 136 ff.; also: Schwenzer in: Völmicke/ Brudermüller (ed.), Family - a public good?, 2010, pp. 103, 106, which names the priority of the child's best interests as a basic principle of modern family law.

107 Helms in: Röthel/ Heiderhoff (Ed.), Regulatory Task Father Position: What can, what is allowed, what does the state want?, 2014, pp. 19, 21; in this direction as well: Heiderhoff, NJW 2016, 2629, 2630; Working group on parentage law, final report, 2017, p. 28 f.; Reuss, Theory of a Parenthood Law, 2018, p. 247 f.; a. A.: Frank, FamRZ 2016, 529, 530; critical of the importance of child welfare in parentage law: Coester-Waltjen, FamRZ 2013, 1693.

108 On the development of identity in the case of fragmented parenthood: Walper/ Bovenschen/ Entleitner-Phleps/ Lux in: Röthel/ Heiderhoff (ed.), Regulatory task of motherhood: What can, what is allowed, what does the state want?, 2016, pp. 31, 40 ff.

109 For the first time: BVerfG, decision of July 29, 1986 - 1 BvL 20/63, 1 BvL 31/66, 1 BvL 5/67, BVerfGE 24, 119, 135; following: BVerfG, judgment of January 31, 1989 - 1 BvL 17/87, BVerfGE 79, 256, 267; BVerfG, decision of April 9, 2003 –1 BvR 1493/96, 1 BvR 1724/01, BVerfGE 108, 82, 100; BVerfG, judgment of February 19, 2013 - 1 BvL 1/11, 1 BvR 3247/09, BVerfGE 133, 59, 78 f. (Rn. 53); so also: Helms in: Röthel/ Heiderhoff (ed.), Regulatory task father position: What can, what is allowed, what does the state want?, 2014, pp. 19, 23 with reference to BVerfGE 108, 82.

110 Helms in: Röthel/ Heiderhoff (ed.), Regulatory task father position: What can, what is allowed, what does the state want?, 2014, pp. 19, 23 f.

child per se, it is not primarily the considerations of the best interests of the child that are behind the principle of true status.

b) Status clarity

Behind the decision of the legislature for externally recognizable and easily ascertainable criteria for assigning parentage to a child are abstract, general considerations of the best interests of the child.[111]

The legal parentage assignment of the child to the birth mother according to § 1591 BGB mainly leads to a congruence of genetic and legal ancestry and to a legal representation of the socially lived parenthood. Above all, however, they enable the child to be clearly and quickly assigned to at least one parent. The view of the legislature that this motherhood must be incontestable, since it is in the child's interest to prevent split motherhood[112], will still have to be discussed.[113]

Legal paternity due to a marriage with the birth mother (§ 1592 No. 1 BGB) is ultimately also based on abstract, general considerations of the best interests of the child. On the one hand, this assignment will regularly match the genetic ancestry and enables a quick, uncomplicated assignment. On the other hand, this assignment will largely correspond to the social and family reality and the child will thus become part of a classic family.[114] However, an assignment also takes place if the father proves to be unsuitable.

1. about history, only something about texts that deal with history and do not produce studies of historical truth, but only new texts about other texts "Eine
2. In this respect, literary text is not preceded by a firmly established historical context to which it
3. behaved like a mirror According to this idea, the socially-historically oriented German studies proceeded. New Historicism, on the other hand, relies on processuality and

111 Helms in: Röthel/ Heiderhoff (ed.), Regulatory task father position: What can, what is allowed, what does the state want?, 2014, pp. 19, 28, whereby he follows the principles of status clarity and stability for the question of the best interests of the child The law of parentage attaches little importance to the law.

112 BT print. 13/4889, p. 82.

113 See below p. 296.

114 Heiderhoff, FamRZ 2008, 1901, 1903.

a. Model characterized by reciprocity, which is based on a constant exchange between text and
b. Practices - wandering, transforming, from one area to the other Though text and
c. Context thus converging on a single level of investigation, differences still exist
    i. What is qualified as art differs due to "special rules and
    ii. special[r] institutional conditions "of other types of text, which also have their peculiarities
    iii. have: "These conditions lead[] to the fact that all cultural materials, all circulating
        1. Significants, emptied of their conventional meaning in the area of the work of art, are in question
        2. The program of New Historicism has drawn extensive criticism, particularly in
        3. the English-language research is articulated On the German side, Moritz Baßler
            a. Baßler is prepared to respond to central objections with a broad theoretical work
            b. Two primary problems emerge from New Historicism: that of "representativeness" and that of
            c. "Linking", as well as two secondary ones: that of "literature specific" and that of "complexity" Zur
                i. To a certain extent, he grounded Greenblatt's highly metaphorical basic concepts to solve the primary problems
                ii. through a structuralist reformulation by using Kristeva's model of intertextuality
                iii. Jacobson's language model short-circuits, he arrives at a concept that is strictly textual
                    1. Culture is therefore to be understood as an ensemble of texts, possibly contemporary
                    2. Meanings of a text that is represented as a syntagm in its linear string,
                    3. are derived from equivalences and oppositions to all other texts in this one

4. Computer-aided search commands along this paradigm form form a paradigm

If you look at the acknowledgment of paternity (§ 1592 No. 2 BGB), the picture is divided. On the one hand, it enables clear, will-based assignment to a man who lives with the mother in a different form of partnership than marriage and whose assignment therefore - similar to the husband - a congruence of legal and genetic ancestry as well as the legal consolidation of the promises social and family reality. On the other hand, however, a child has no way of influencing who recognizes his or her paternity, since a requirement for consent such as that of the mother does not exist for the child.[115]In addition, constellations are conceivable in which the child could (also) have an interest in the legal paternity of the genetic father, despite the existing social-family relationship with its legal father.[116]

c) Status constancy

The principle of permanent status, which is closely linked to the principle of status clarity, aims to achieve the most permanent and stable legal parent-child assignment possible. This, too, is fundamentally in the child's interest. However, this permanent assignment can also run counter to the interests of the child if the legal assignment no longer corresponds to the actual social assignment or a legal rearrangement for other reasons would be in the interests of the child. Although there is a possibility of correction, at least with regard to paternity, with the challenge, abstract and general considerations of the best interests of the child tend to be in the background. This applies in particular with a view to the ex tunc effect of the contestation, which - regardless of the period in which paternity was lived - puts those involved in such a way,[117] Whether the child's best interests oppose this result is neither examined in a specific individual case, nor are abstract, general considerations of the child's best interests behind this consequence on the part of the legislature - he rather had the congruence of genetic and legal descent in mind.[118]

The exclusion of contestation of § 1600 II BGB in the case of an existing social-family relationship between the legal father and the child is a double-edged sword with a view to the child's well-being. The protection of an

115 Exceptionally, consent is required if the mother is not entitled to parental custody, Section 1595 II BGB.

116 On multiple parents see below p. 306.

117 Gajewski/ Heiderhoff, Praxis der Rechtsspsychologie 26 (2016), 23, 29, who advocate termination of paternity with ex nunc effects.

118 See the justification for the draft law for the standardization and amendment of family law regulations (Family Law Amendment Act), BT-Drucks. 3/530, p. 13 ff.

existing and lived social and family relationship between the child and its legal father is primarily in the interests of the child. At the same time, however, the child can also have an interest in obtaining a legal assignment (also) to the genetic father if, for example, there is also some kind of relationship with him.[119]

d) "Two parents" principle

Legal-political considerations as well as ideas of what a family should be are behind the parentage assignment of a child to only two parents.[120] It is sometimes argued that the limitation to two parents serves to avoid conflicts of competence and roles and thus ultimately also serves the best interests of the child.[121] On the other hand, the objection is increasingly being raised that the solution to these conflicts cannot simply be found in the exclusion of parents, but rather could be made binding in another way by the legislature.[122] In addition, the question of a constitutional limitation of the number of parents to two people as well as the reasons for or against assigning parental rights to more than two people are to be reserved for the further course of the investigation.[123]

e) Intermediate result

In the current law of parentage, the specific, individual child welfare assessment only plays a subordinate role. On the other hand, some regulations and the basic principles of the right of parentage are already based on abstract and general considerations of the best interests of the child. Even if the best interests of the child are not per se a basic principle of the applicable law of descent, it should be noted that abstract, general considerations of the best interests of the child already have an impact on the allocation of parentage law.

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119 For example: Heiderhoff, FamRZ 2008, 1901; Plettenberg, father, father, mother, child - a plea for legal multiple fatherhood, 2016, p. 84 ff.

120 Reuss, Theory of a Parenthood Law, 2018, p. 161.

121 For this: Sanders, Mehrelternschaft, 2018, p. 334 ff.

122 For example: Wedemann, Competitive Fatherhoods and Double Motherhood in International Descent Law, 2006, p. 50 ff. (Fathers) and p. 131 ff. (Mothers); Jestaedt in: Coester-Waltjen/ V. Lipp/ Schumann/ Veit (Eds.), "Fertility Medicine" - Need for Reform in Parentage Law?, 2015, pp. 23, 42; Heiderhoff, NJW 2016, 2629, 2630; with a view to motherhood: Kaufhold in: Röthel/ Heiderhoff (ed.), Regulatory task of motherhood: What can, what is allowed, what does the state want?, 2016, pp. 87, 104 f.; Sanders, Mehrelternschaft, 2018, p. 337; in this work below p.306.

123 For constitutional law, see p. 96 ff.; on multiple parenthood, see in particular 306 ff.

C. Summary: The tasks of the right of parentage

The essential task of the right of descent - the assignment of the civil status - arises from its nature as a right of status. As soon as possible after the birth, the child should be assigned to its legal parents in order to obtain legal certainty about the civil status of those involved as quickly as possible.

The right of descent follows the three basic principles: Behind the principle of the truth of descent is the goal of congruence of genetic and legal descent. Nonetheless, the legislature tolerates a permanent breakdown where other connections - for example birth and pregnancy within the framework of § 1591 BGB or the actually lived social-family relationship with the exclusion of contestation under § 1600 II BGB - a stable and permanent assignment of one child to another Justify person. At this point the interlocking of the truth of parentage with the principle of status clarity becomes clear, according to which the legal parentage should be based on criteria that are externally recognizable and therefore easily identifiable by everyone, so that there is a clear legal parent-child assignment. In addition, this assignment should be as permanent as possible and should not be able to be easily changed (principle of status stability):

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2. In this respect, literary text is not preceded by a firmly established historical context to which it
3. behaved like a mirror According to this idea, the socially-historically oriented German studies proceeded. New Historicism, on the other hand, relies on processuality and
   - Model characterized by reciprocity, which is based on a constant exchange between text and
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   - Context thus converging on a single level of investigation, differences still exist
     - What is qualified as art differs due to “special rules and

- special[r] institutional conditions "of other types of text, which also have their peculiarities
- have: "These conditions lead[] to the fact that all cultural materials, all circulating

4. Computer-aided search commands along this paradigm form form a paradigm

Although the right of parentage is generally not at the disposal of the parties involved, it allows some clearly limited scope for decision-making, which shows that an parentage can also be based on social and voluntary criteria. The assignment of a child to only two parents is to be understood as a legal political value decision that has been established more and more by the legislature and case law over the years, but at the same time is not a mandatory consequence of the status-legal nature of the right of parentage.

Guarantee a context, for example by having a specific
The extent to which this can be built on depends on the circumstances. These circumstances include
both the scope of an 'archive' and the status of its digital indexing as an 'archive'
Bassler does not designate a specific place, but the sum of all the texts that have been handed down to us
Investigating the early modern corpus, problems exist from the outset from this point of view
Databases such as the VD 17 are available, but they do not collect any transcribed
Full texts Only titles, which in itself is very helpful, are available via the search function
to find The technical conditions for putting Baßler's model into practice are here in
Basically not yet given Although he also uses the search command metaphorically in the sense that
so that a single scientist can be meant, but his method works

Finally, the study shows that the current law of parentage is already partly guided by abstract, general considerations of the best interests of the child. Even if these have not yet been one of the determining principles of parentage law, de lege ferenda should be considered whether their

importance as an essential guideline for parentage law should be further strengthened.TRADE SIMPLE