

Translation provided by Prof. Dr Michael Bohlander. Translation completely revised and regularly updated by Ute Reusch. Version information: The translation includes the amendment(s) to the Act by Article 2 of the Act of 19 June 2019 (Federal Law Gazette I, p. 844)
© 2019 juris GmbH, Saarbrücken

German Criminal Code (StGB)

- Extract -

In the version published on 13 November 1998, Federal Law Gazette (Bundesgesetzblatt) I, p. 3322, as last amended by Article 2 of the Act of 19 June 2019 (Federal Law Gazette I, p. 844)

Table of contents

General Part

Chapter 2

The act

Title 1. Basic principles of criminal liability

Section 20 Lack of criminal responsibility due to mental illness

Chapter 3

Legal consequences

Title 1. Penalties

Incidental legal consequences

Section 45 Loss of ability to hold public office, to vote and be elected

Section 45a Entry into effect and calculation of duration

Section 45b Reinstatement of abilities and rights

Title 6. Measures of reform and prevention

Measures involving deprivation of liberty

Section 63 Placement in psychiatric hospital

Special Part

Chapter 4

Offences against constitutional organs and in context of elections and ballots

- Section 107 Disruption of electoral process
- Section 107a Fraud in connection with elections
- Section 107b Forgery of election documents
- Section 107c Violation of secrecy of ballot
- Section 108 Coercion of voters
- Section 108a Deceiving voters
- Section 108b Bribing voters
- Section 108c Incidental legal consequences
- Section 108d Scope

Chapter 9

False unsworn testimony and perjury

- Section 156 False declaration in lieu of oath
- Section 157 Testimony under duress
- Section 158 Correction of false testimony
- Section 159 Attempt to abet false testimony
- Section 160 Subornation of false testimony
- Section 161 Negligent false oath; negligent false declaration in lieu of oath
- Section 162 International courts; national committees of inquiry

Chapter 15

Violation of privacy of personal and private sphere

- Section 203 Violation of private secrets
- Section 206 Violation of secrecy of post or telecommunications

Chapter 23

Forgery of documents

Section 267 Forgery of documents

Chapter 30

Offences committed in public office

Section 353b Breach of official secrecy and special obligation of secrecy

General Part

CHAPTER 2 THE ACT

TITLE 1 BASIC PRINCIPLES OF CRIMINAL LIABILITY

Section 20 Lack of criminal responsibility due to mental illness

Whoever, at the time of the commission of the offence, is incapable of appreciating the unlawfulness of their actions or of acting in accordance with any such appreciation due to a pathological mental disorder, a profound disturbance of consciousness, mental deficiency or any other serious mental abnormality is deemed to act without guilt.

CHAPTER 3 LEGAL CONSEQUENCES

TITLE 1 PENALTIES Incidental legal consequences

Section 45 Loss of ability to hold public office, to vote and be elected

(1) Whoever is sentenced to imprisonment for a term of at least one year for a serious criminal offence loses the ability, for a period of five years, to hold public office and be elected in public elections.

(2) The court may deprive a convicted person of the abilities referred to in subsection (1) for a period of between two and five years insofar as the law expressly so provides.

(3) At the same time that the loss of ability to hold public office takes effect, the convicted person also loses any corresponding legal positions and rights which he or she may be holding at that time.

(4) At the same time that the loss of ability to be elected in public elections takes effect, the convicted person loses any corresponding legal positions and rights which they may be holding, unless otherwise provided by law.

(5) The court may deprive the convicted person of the right to vote on public matters for a period of between two and five years insofar as the law expressly so provides.

Section 45a **Entry into effect and calculation of duration**

(1) The loss of the abilities, legal status and rights takes effect upon the judgment becoming final.

(2) The duration of the loss of an ability or of a right is calculated from the day on which the sentence of imprisonment has been served, barred by the statute of limitations or remitted. If a measure of reform and prevention involving deprivation of liberty was ordered in addition to imprisonment, the duration begins on the day on which that measure was disposed of.

(3) If enforcement of the sentence, the remainder of the sentence or the measure was suspended on probation or by an act of clemency, any probation period is included when calculating the duration if, after its expiry, the sentence or the remainder thereof was remitted or the measure was disposed of.

Section 45b **Reinstatement of abilities and rights**

(1) The court may reinstate any abilities and rights lost pursuant to section 45 (1) and (2) and any rights lost pursuant to section 45 (5) if

1. the loss has been in effect for half of its intended duration and
2. it is to be expected that the convicted person will commit no further intentional offences.

(2) Any period during which the convicted person was detained in an institution by official order is not taken into account.

TITLE 6
MEASURES OF REFORM AND PREVENTION
Measures involving deprivation of liberty

Section 63
Placement in psychiatric hospital

If a person has committed an unlawful act in a state of criminal irresponsibility (section 20) or in a state of diminished responsibility (section 21), the court orders that person's placement in a psychiatric hospital if the overall evaluation of the offender and of the offence reveals that, due to the offender's condition, he or she represents a danger to the general public on account of it being expected that he or she will in future commit serious unlawful acts which will result in the victims of the offence suffering or being exposed to the considerable danger of severe emotional trauma or physical injury or which will cause serious economic damage. If the unlawful act which has been committed is not an offence as referred to in sentence 1, the court only makes such an order if special circumstances justify the expectation that, due to the offender's condition, the offender will in future commit such serious offences.

CHAPTER 4
OFFENCES AGAINST CONSTITUTIONAL ORGANS AND IN CONTEXT OF ELECTIONS AND
BALLOTS

Section 107
Disruption of electoral process

(1) Whoever, by force or threat of force, prevents or disrupts an election or the determination of its result incurs a penalty of imprisonment for a term not exceeding five years or a fine, in especially serious cases imprisonment for a term of at least one year.

(2) The attempt is punishable.

Section 107a
Fraud in connection with elections

(1) Whoever votes without being entitled to do so or brings about an incorrect election result or falsifies the result in another way incurs a penalty of imprisonment for a term not exceeding five years or a fine. Whoever, in the capacity as a permissible assistant, casts a vote which is contrary to the choice of the person entitled to vote or without the person entitled to vote having expressed their choice also votes without being entitled to do so.

(2) Whoever incorrectly announces an election result or causes it to be incorrectly announced incurs the same penalty.

(3) The attempt is punishable.

Section 107b Forgery of election documents

(1) Whoever

- 1. secures their entry in the electoral roll (electoral register) by making false statements,**
- 2. registers another person as a voter whom they know to have no right to be registered,**
- 3. prevents the registration of an eligible voter although they know of that voter's eligibility to vote,**
- 4. permits themselves to be nominated as a candidate in an election although they are ineligible**

incurs a penalty of imprisonment for a term not exceeding six months or a fine not exceeding 180 daily rates, unless the offence is subject to a more severe penalty under other provisions.

(2) The issuance of election documents for direct elections in the social security system is equivalent to an entry in the electoral roll.

**Section 107c
Violation of secrecy of ballot**

Whoever contravenes a provision which serves to protect the secrecy of elections with the intention of obtaining for themselves or another knowledge as to how a person voted incurs a penalty of imprisonment for a term not exceeding two years or a fine.

**Section 108
Coercion of voters**

(1) Whoever unlawfully uses force, threatens serious harm, abuses a professional or economic relationship of dependence or other economic pressure to compel another, or whoever prevents another person from voting or exercising their right to vote in a particular manner incurs a penalty of imprisonment for a term not exceeding five years or a fine, in especially serious cases imprisonment for a term of between one year and 10 years.

(2) The attempt is punishable.

**Section 108a
Deceiving voters**

(1) Whoever, by means of deception, causes another to be mistaken as to the content of their declaration upon casting their vote or, against their will, not to vote or to cast an invalid vote incurs a penalty of imprisonment for a term not exceeding two years or a fine.

(2) The attempt is punishable.

**Section 108b
Bribing voters**

(1) Whoever offers, promises or grants another gifts or other benefits in exchange for not voting or for voting in a particular manner incurs a penalty of imprisonment for a term not exceeding five years or a fine.

(2) Whoever demands, allows themselves to be promised or accepts gifts or other benefits in exchange for not voting or voting in a particular manner incurs the same penalty.

Section 108c Incidental legal consequences

In addition to a sentence of imprisonment of at least six months for an offence under sections 107, 107a, 108 and 108b, the court may order the loss of the right to be elected in public elections and to vote on public matters (section 45 (2) and (5)).

Section 108d Scope

Sections 107 to 108c apply to parliamentary elections, to the election of members of the European Parliament, other popular elections and ballots at the federal, federal state and local government level, to elections and ballots in subareas at federal state or local government level, as well as to direct elections in the social security system. The signing of nomination papers or the signing of a petition for a referendum is equivalent to an election or ballot.

CHAPTER 9 FALSE UNSWORN TESTIMONY AND PERJURY

Section 156 False declaration in lieu of oath

Whoever falsely makes a declaration in lieu of an oath before an authority which is competent to administer such declarations or falsely testifies whilst referring to such a declaration incurs a penalty of imprisonment for a term not exceeding three years or a fine.

Section 157
Testimony under duress

(1) If a witness or an expert has committed perjury or given false unsworn testimony, the court may, at its discretion, mitigate the penalty (section 49 (2)) or, in the case of unsworn testimony, dispense with imposing a penalty if the offender told a lie in order to avert the danger of a relative or the offender incurring a penalty or being subjected to a measure of reform and prevention involving deprivation of liberty.

(2) The court may, at its discretion, also mitigate the penalty (section 49 (2)) or dispense with imposing a penalty if a person who has not yet reached the minimum age for swearing an oath has given false unsworn testimony.

Section 158
Correction of false testimony

(1) The court may, at its discretion, mitigate the penalty (section 49 (2)) for perjury, a false declaration in lieu of an oath or false unsworn testimony, or may dispense with imposing a penalty if the offender corrects the false testimony in time.

(2) The correction is no longer in time if it can no longer be used in reaching the decision, if the offence has caused detriment to another or if a report has already been made against the offender or an investigation has been launched.

(3) The correction may be made to the authority before which the false testimony was given or by which it is to be evaluated in the proceedings, to a court, a public prosecutor or a police authority.

Section 159
Attempt to abet false testimony

Section 30 (1) and section 31 (1) no. 1 and (2) apply accordingly to an attempt to abet false unsworn testimony (section 153) and a false declaration in lieu of an oath (section 156).

Section 160
Subornation of false testimony

(1) Whoever suborns another to swear a false oath incurs a penalty of imprisonment for a term not exceeding two years or a fine; whoever suborns another to make a false declaration in lieu of an oath or to give false unsworn testimony incurs a penalty of imprisonment for a term not exceeding six months or a fine not exceeding 180 daily rates.

(2) The attempt is punishable.

**Section 161
Negligent false oath; negligent false declaration in lieu of oath**

(1) Whoever commits one of the offences referred to in sections 154 to 156 by negligence incurs a penalty of imprisonment for a term not exceeding one year or a fine.

(2) No penalty is incurred if the offender corrects the false statement in time. The provisions of section 158 (2) and (3) apply accordingly.

**Section 162
International courts; national committees of inquiry**

(1) Sections 153 to 161 apply to false statements made in proceedings before an international court established under a legal instrument which is binding on the Federal Republic of Germany.

(2) Sections 153 and 157 to 160, insofar as they relate to false unsworn statements, also apply to false statements made before a committee of inquiry of one of the legislative bodies of the Federation or of one of the Länder.

**CHAPTER 15
VIOLATION OF PRIVACY OF PERSONAL AND PRIVATE SPHERE**

**Section 203
Violation of private secrets**

(1) [...]

(2) Whoever, without being authorised to do so, discloses another's secret, in particular a secret relating to that person's personal sphere of life or to a business or trade secret which was revealed or otherwise made known to them in their capacity as

1. a public official,
2. a person entrusted with special public service functions,
3. [...]
4. a member of a committee of inquiry working for a legislative body of the Federation or of one of the Länder, another committee or council which is not itself part of the legislative body, or as an assistant to such a committee or council,
5. [...]
6. [...]

incurs the same penalty. Particulars about another person's personal or material circumstances which have been collected for public administration purposes are deemed to be equivalent to a secret within the meaning of sentence 1; sentence 1 does not apply to the extent that such particulars are made known to other public authorities or other agencies for public administration purposes and that is not prohibited by law.

[...]

(6) If the offender acts for a consideration or with the intention of personal enrichment or the enrichment of another or the intention of harming another, the penalty is imprisonment for a term not exceeding two years or a fine.

Section 206 Violation of secrecy of post or telecommunication

(1) Whoever, without being authorised to do so, communicates to another person facts which are subject to the secrecy of post or telecommunications and which have become known to them as the owner or employee of an enterprise which is in the business of providing postal or telecommunications services incurs a penalty of imprisonment for a term not exceeding five years or a fine.

(2) Whoever, in the capacity as owner or employee of an enterprise indicated in subsection (1), without being authorised to do so,

- 1. opens an item of sealed mail which has been entrusted to such an enterprise for delivery or gains knowledge of its content using technical means and without breaking the seal,**
- 2. suppresses an item of mail entrusted to such an enterprise for delivery or**
- 3. permits or encourages one of the activities described in subsection (1) or in no. 1 or 2**

incurs the same penalty.

(3) Subsections (1) and (2) also apply to persons who

- 1. perform supervisory tasks over one of the enterprises designated in subsection (1),**
- 2. are entrusted by such an enterprise or with its authorisation to provide postal or telecommunications services or**
- 3. are entrusted with the production of facilities serving the operation of such an enterprise or with performing work thereon.**

(4) Whoever, without being authorised to do so, communicates to another person facts which have become known to them in their capacity as a public official working outside the postal or telecommunications service on the basis of an authorised or unauthorised violation of the secrecy of post or telecommunications incurs a penalty of imprisonment for a term not exceeding two years or a fine.

(5) The further particulars relating to post received by specific persons as well as the content of items of mail are subject to the secrecy of post. The content of telecommunications and details thereof, in particular the fact whether someone participated in or is participating in a telecommunications process, are subject to the secrecy of telecommunications. The secrecy of telecommunications also extends to details concerning unsuccessful attempts to establish a connection.

**CHAPTER 23
FORGERY OF DOCUMENTS**

**Section 267
Forgery of documents**

(1) Whoever, for the purpose of deception in legal commerce, produces a counterfeit document, falsifies a genuine document, or uses a counterfeit or falsified document incurs a penalty of imprisonment for a term not exceeding five years or a fine.

(2) The attempt is punishable.

(3) In especially serious cases, the penalty is imprisonment for a term of between six months and 10 years. An especially serious case typically occurs where the offender

- 1. acts on a commercial basis or as a member of a gang whose purpose is the continued commission of fraud or forgery of documents,**
- 2. causes major financial loss,**
- 3. substantially endangers the security of legal commerce through a large number of counterfeit or falsified documents or**
- 4. abuses his or her powers or position as a public official or European official.**

(4) Whoever commits forgery of documents on a commercial basis as a member of a gang whose purpose is the continued commission of offences under sections 263 to 264 or sections 267 to 269 incurs a penalty of imprisonment for a term of between one year and 10 years, in less serious cases imprisonment for a term of between six months and five years.

**CHAPTER 30
OFFENCES COMMITTED IN PUBLIC OFFICE**

**Section 353b
Breach of official secrecy and special obligation of secrecy**

(1) Whoever, without being authorised to do so, discloses a secret which has been disclosed or otherwise become known to them in the capacity as

- 1. a public official,**
- 2. a person entrusted with special public service functions or**
- 3. a person who discharges duties or exercises powers under the law on staff representation,**

and thereby jeopardises important public interests, incurs a penalty of imprisonment for a term not exceeding five years or a fine. Offenders who, by committing the offence, have negligently jeopardised important public interests incur a penalty of imprisonment for a term not exceeding one year or a fine.

(2) Whoever, other than in the cases under subsection (1), without being authorised to do so, allows an object or information

- 1. which they are obliged to keep secret on the basis of a resolution of a legislative body of the Federation or of one of its Länder or one of their committees or**
- 2. which they have been formally put under an obligation to keep secret by another official agency under notice of criminal liability for a breach of the obligation to maintain secrecy**

to come to the attention of another or makes it publicly known, and thereby jeopardises important public interests, incurs a penalty of imprisonment for a term not exceeding three years or a fine.

(3) The attempt is punishable.

(3a) Acts of aiding by one of those persons referred to in section 53 (1) sentence 1 no. 5 of the Code of Criminal Procedure are not deemed unlawful if they are restricted to the receipt, analysis or publication of the secret or of the object or the information in respect of which a special duty of secrecy exists.

(4) The offence is prosecuted only upon authorisation. Such authorisation is granted by

- 1. the president of the legislative body**
 - a) in the cases under subsection (1) if the secret became known to the offender during his or her service in or for a legislative body of the Federation or of one of the Länder,**
 - b) in the cases under subsection (2) no. 1;**
- 2. the highest federal authority**
 - a) in the cases under subsection (1) if the secret became known to the offender during his or her service otherwise in or for an authority or in another official agency of the Federation or for such an agency,**
 - b) in the cases under subsection (2) no. 2 if the offender was put under an obligation by an official agency of the Federation;**
- 3. the highest Land authority in all other cases under subsection (1) and subsection (2) no. 2.**