

German Criminal Code (StGB)

- Extract -

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Table of contents

General Part

Chapter two

The offence

First title. Foundations of criminal liability

Section 20 Insanity

Chapter three

Sanctions

First title. Penalties

- Ancillary measures -

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

Section 45a Entry into effect and calculation of duration

Section 45b Reinstatement

Sixth title. Measures of rehabilitation and incapacitation

- Custodial measures -

Section 63 Mental hospital order

Special Part

Chapter four

Offences against constitutional organs and in the context of elections and ballots

- Section 107 Disruption of election process
- Section 107a Falsification of election results
- Section 107b Falsification of election documents
- Section 107c Violation of secrecy of elections
- Section 108 Blackmailing voters
- Section 108a Deceiving voters
- Section 108b Bribing voters
- Section 108c Ancillary measures
- Section 108d Jurisdiction

Chapter Nine

False testimony and perjury

- Section 156 False sworn affidavits
- Section 157 Duress
- Section 158 Correction of false testimony
- Section 159 Attempt to abet false testimony
- Section 160 Procuring false testimony
- Section 161 Negligent offences
- Section 162 International Courts; national commissions of inquiry

Chapter Fifteen

Violation of privacy

- Section 203 Violation of private secrets

Chapter Twenty-three

Forgery

- Section 267 Forgery

General Part

CHAPTER TWO THE OFFENCE

FIRST TITLE FOUNDATIONS OF CRIMINAL LIABILITY

Section 20 Insanity

Any person who 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 consciousness disorder, debility or any other serious mental abnormality, shall be deemed to act without guilt.

CHAPTER THREE SANCTIONS

FIRST TITLE PENALTIES -Imprisonment-

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

(1) A person who has been sentenced for a felony to a term of imprisonment of not less than one year shall, for a period of five years, lose the ability to hold public office and be elected in public elections.

(2) The court may deprive a convicted person of the ability indicated in subsection (1) above for a period of from two to five years if the law expressly so provides.

(3) At the same time that the loss of ability to hold public office takes effect, the convicted person shall lose any corresponding legal positions and rights he may at that time hold.

(4) At the same time the loss of the ability to be elected in public elections takes effect, the convicted person shall lose any corresponding legal positions and rights he may hold unless the law provides otherwise.

(5) The court may deprive the convicted person of the right to take part in elections or to vote in public affairs for a period of from two to five years if the law expressly so provides.

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

(1) The loss of the ability, legal positions and rights shall take effect upon the judgment having become final.

(2) The duration of the loss of ability or of a right shall be calculated from the day the term of imprisonment has been served, barred by the statute of limitations or remitted. If a custodial measure of rehabilitation and incapacitation had been ordered in addition to imprisonment, the duration shall begin on the day that measure has been served.

(3) If the sentence or the measure had been suspended or conditional early release granted under a period of probation, or an executive pardon granted, any operational probationary period shall be included in the calculation of the duration if, after its expiration, the sentence or the remainder thereof has been remitted, or when the measure has been completed.

Section 45b **Reinstatement**

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

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

(2) Any period during which the offender was kept in detention in an institution pursuant to an order of a public authority shall not count towards the duration.

SIXTH TITLE
MEASURES OF REHABILITATION AND INCAPACITATION
—Custodial measures—

Section 63
Mental hospital order

If a person has committed an unlawful act in a state of insanity (section 20) or diminished responsibility (section 21) the court shall make a mental hospital order if a comprehensive evaluation of the offender and the act leads to the conclusion that as a result of his condition, future serious unlawful acts can be expected of him and that he therefore presents a danger to the general public.

CHAPTER FOUR
OFFENCES AGAINST CONSTITUTIONAL ORGANS AND IN THE CONTEXT OF ELECTIONS AND
BALLOTS

Section 107
Disruption of election process

(1) Whosoever, by force or threat of force, prevents or disturbs an election or the determination of its results, shall be liable to imprisonment of not more than five years or a fine, in especially serious cases to imprisonment of not less than one year.

(2) The attempt shall be punishable.

Section 107a
Falsification of election results

(1) Whosoever votes without being entitled thereto or otherwise causes an incorrect election result or falsifies the result, shall be liable to imprisonment of not more than five years or a fine.

(2) Whosoever incorrectly announces an election result or causes it to be incorrectly announced shall incur the same liability.

(3) The attempt shall be punishable.

Section 107b
Falsification of election documents

(1) Whosoever

1. secures his registration in the electoral rolls (election register) by means of false statements;
2. registers another as a voter, whom he knows to have no right to be registered;
3. prevents the registration of an eligible voter though he knows of his eligibility to vote;
4. permits himself to be nominated as a candidate in an election, although he is ineligible,

shall be liable to imprisonment of not more than six months or a fine of not more than one hundred and eighty daily units unless the offence is subject to a more severe penalty under other provisions.

(2) The issuance of election papers for direct elections in the social security system shall be equivalent to registration in the voter rolls as a voter.

Section 107c
Violation of secrecy of elections

Whosoever contravenes a provision which serves to protect the secrecy of elections with the intention of obtaining for himself or another knowledge as to how a person voted, shall be liable to imprisonment of not more than two years or a fine.

Section 108
Blackmailing voters

(1) Whosoever unlawfully, by force, threat of serious harm, abuse of a professional or economic relationship of dependence or other economic pressure, coerces another into, or prevents him from, voting or exercising his right to vote in a particular manner, shall be liable to imprisonment of not more than five years or a fine, in especially serious cases to imprisonment from one to ten years.

(2) The attempt shall be punishable.

Section 108a
Deceiving voters

(1) Whosoever through deception causes another to be mistaken as to the content of his declaration upon casting his vote or to vote against his will or invalidly, shall be liable to imprisonment of not more than two years or a fine.

(2) The attempt shall be punishable.

Section 108b
Bribing voters

(1) Whosoever offers, promises or furnishes to another gifts or other benefits for not voting or for voting in a particular manner, shall be liable to imprisonment of not more than five years or a fine.

(2) Whosoever requests, is promised or accepts gifts or other benefits in exchange for not voting or voting in a particular manner, shall incur the same penalty.

Section 108c
Ancillary measures

In addition to a sentence of imprisonment of at least six months for an offence pursuant to section 107, section 107a, section 108 or section 108b the court may order the loss of the ability to hold public office, to vote and be elected in public elections (section 45 subsections (2) and (5)).

Section 108d
Jurisdiction

Sections 107 to 108c shall apply to elections to the parliaments, election of members of the European Parliament, other popular elections and ballots in the Federation, the member states, municipalities and municipal associations, as well as direct elections in the social security system. The signing of nomination papers or the signing of a popular referendum shall be equivalent to an election or ballot.

**CHAPTER NINE
FALSE TESTIMONY AND PERJURY**

**Section 157
Duress**

(1) If a witness or an expert has perjured himself or given false unsworn testimony, the court in its discretion may mitigate the sentence (section 49 subsection (2)) or in the case of unsworn testimony order a discharge, if the offender told a lie in order to avert from a relative or himself a danger of being punished or subjected to a custodial measure of rehabilitation and incapacitation.

(2) The court in its discretion may also mitigate the sentence (section 49 subsection (2)) or order a discharge if a person not yet competent to take an oath has given false unsworn testimony.

**Section 158
Correction of false testimony**

(1) The court in its discretion may mitigate the sentence (section 49 subsection (2)) for perjury, false sworn affidavit or false unsworn testimony or order a discharge if the offender corrects his false testimony in time.

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

(3) The correction may be made to the authority before whom the false testimony was given or by whom 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 subsection (1), section 31 subsection (1) number 1 shall apply mutatis mutandis to an attempt to abet false unsworn testimony (section 153) and a false sworn affidavit (section 156).

Section 160
Procuring false testimony

(1) Whosoever procures another to take a false oath shall be liable to imprisonment of not more than two years or a fine; whosoever procures another to make a false sworn affidavit or give false unsworn testimony shall be liable to imprisonment of not more than six months or a fine of not more than one hundred and eighty daily units.

(2) The attempt shall be punishable.

Section 161
Negligent offences

(1) If a person commits one of the offences listed in sections 154 to 156 negligently the penalty shall be imprisonment of not more than one year or a fine.

(2) The offender shall be exempt from liability if he corrects his false testimony in time. The provisions of section 158 subsections (2) and (3) shall apply mutatis mutandis.

Section 162
International Courts; national commissions of inquiry

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

(2) Sections 153 and 157 to 160 shall apply mutatis mutandis to false statements made before a parliamentary commission of inquiry of the Federation or of a Member State.

CHAPTER FIFTEEN
VIOLATION OF PRIVACY

Section 203
Violation of private secrets

(1) [...]

(2) Whosoever unlawfully discloses a secret of another, in particular, a secret which belongs to the sphere of personal privacy or a business or trade secret, which was confided to or otherwise made known to him in his capacity as a

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

[...]

shall incur the same penalty.

[...]

(5) If the offender acts for material gain or with the intent of enriching himself or another or of harming another the penalty shall be imprisonment of not more than two years or a fine.

CHAPTER TWENTY-THREE FORGERY

Section 267 Forgery

(1) Whosoever for the purpose of deception in legal commerce produces a counterfeit document, falsifies a genuine document or uses a counterfeit or a falsified document, shall be liable to imprisonment of not more than five years or a fine.

(2) The attempt shall be punishable.

(3) In especially serious cases the penalty shall be imprisonment from six months to ten years. An especially serious case typically occurs if 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;
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 powers or his position as a public official.

(4) Whosoever commits forgery 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 shall be liable to imprisonment from one to ten years, in less serious cases to imprisonment from six months to five years.