

## Criminal Code

as of 15 August 1998 [ä Thamann-Übersetzung]

last adaptation: 16 August 2005

(...)

### Section 176: Sexual Abuse of Children

(1) Whoever commits sexual acts on a person under fourteen years of age (a child), or allows them to be committed on himself by the child, shall be punished with imprisonment from six months to ten years.

(2) Whoever induces a child to commit sexual acts on a third person, or to have them committed on the child by a third person, shall be similarly punished.

(3) In especially serious cases imprisonment of not less than one year shall be imposed.

(4) Whoever:

1. commits sexual acts in front of a child;
2. induces the child to commit sexual acts on his own body;
3. exerts influence on a child by writings (Section 11 subsection 3) to induce him to commit sexual acts on or in front of the perpetrator or a third person or by the perpetrator or a third person on the child, or
4. exerts influence on a child by showing him pornographic illustrations or images, by playing him audio recording media with pornographic content or by corresponding speech,

shall be punished with imprisonment from three months to five years.

(5) Whoever offers or is shown to have promised a child for an act under subsections (1) to (4) or who arranges with another to commit such an act, shall be punished with imprisonment from three months to five years.

(6) An attempt shall be punishable; this shall not apply for acts under subsection (4), numbers 3 and 4 and subsection (5).

### Section 176a: Serious Sexual Abuse of Children

(1) The sexual abuse of children shall be punished with imprisonment for no less than one year in cases under Section 176 subsections (1) and (2), if the perpetrator has been convicted in a final judgment of such a crime within the previous five years.

(2) The sexual abuse of children shall be punished with imprisonment for no less than two years in cases under Section 176 subsections (1) and (2), if:

1. a person over eighteen years of age completes an act of sexual intercourse or similar sexual acts with the child, which are combined with a penetration of the body, or allows them to be committed on himself by the child;
2. the act is committed jointly by more than one person; or
3. the perpetrator by the act places the child in danger of serious health damage or substantial impairment of his physical or emotional development.

(3) Whoever, in cases under Section 176 subsections (1) to (3), (4) nos. 1 or 2, or Section 176 subsection 6, acts as a perpetrator or other participant with the intent of making the act the object of a pornographic writing (Section 11 subsection (3)), which is to be disseminated pursuant to Section 184b subsections (1) to (3), shall be punished with imprisonment for not less than two years.

(4) In less serious cases under subsection (1), imprisonment from three months to five years shall be imposed, in less serious cases under subsection (2), imprisonment from one year to ten years.

(5) Whoever, in cases under Section 176 subsections (1) to (3), seriously physically abuses the child or places the child in danger of death, shall be punished with imprisonment for not less than five years.

(6) The time in which the perpetrator is in custody in an institution pursuant to order of a public authority shall not be credited to the term indicated in subsection (1). An act as to which judgment was rendered abroad shall be deemed equivalent in cases under subsection (1), to an act as to which judgment was rendered domestically, if under German criminal law it would have been such an act under Section 176 subsections (1) or (2).

### **Section 176b: Sexual Abuse of Children Resulting in Death**

If by the sexual abuse (Sections 176 and 176a) the perpetrator at least recklessly causes the death of the child, then the punishment shall be imprisonment for life or for not less than ten years.

(...)

### **Section 236 Trafficking in Children**

(1) Whoever, in gross neglect of his duties of care and upbringing, leaves his child, ward, or foster child under eighteen years of age with another indefinitely for compensation or with the intent of enriching himself or a third person, shall be punished with imprisonment for not more than five years or a fine. Whoever, in cases under sentence 1, takes the child, ward, or foster child in indefinitely and gives compensation therefore, shall be similarly punished.

(2) Whoever, without authorization:

1. procures the adoption of a person under eighteen years of age; or
2. engages in procurement activity which has as its goal that a third person takes in a person under eighteen years of age indefinitely,

and thereby acts for compensation or with the intent of enriching himself or a third person, shall be punished with imprisonment for not more than three years or a fine. If the perpetrator in cases under sentence 1 causes the procured person to be brought into Germany or abroad, then the punishment shall be imprisonment for not more than five years or a fine.

(3) An attempt shall be punishable.

(4) Imprisonment from six months to ten years shall be imposed, if the perpetrator:

1. acts for profit, on a commercial basis or as a member of a gang, which has combined for the continued commission of trafficking in children; or
2. by the act places the child or the procured person in danger of a substantial impairment of his physical or emotional development.

(5) The court may in its discretion mitigate the punishment (Section 49 subsection (2)) in cases under subsections (1) and (3) and in cases under subsections (2) and (3) or dispense with punishment under subsections (1) to (3) for participants whose guilt, taking into consideration the physical or emotional welfare of the child or the procured person, is slight.

(...)