APPENDIX B
THE GERMAN YOUTH COURT LAW (*JUGENDGERICHTSGESETZ* (*JGG*))

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FIRST PART
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SECTION 1. SCOPE OF APPLICATION AS TO PERSONS AND FACTS

(1) This law is applicable if a juvenile or an adolescent commits a criminal act that is subject to punishment according to the provisions of the general law.

(2) A juvenile is a person who, at the time the act is committed, is 14 years old, but who has not yet completed the 18th year of age; an adolescent is a person who is 18 years old at the time of the act, but who has not yet reached the 21st year of age.

SECTION 2. OBJECTIVE OF THE CRIMINAL LAW RELATING TO YOUNG OFFENDERS, APPLICATION OF GENERAL CRIMINAL LAW

(1) When applying criminal law relating to young offenders the main objective is to try to prevent that new criminal acts are committed by a juvenile or adolescent. In order to reach this objective the main focus of the legal consequences and, with due regard to the parental right of care and custody, also of the proceedings shall be placed on the aspect of correction and discipline.

(2) The provisions of the general law apply only unless otherwise provided by this law.

SECOND PART
JUVENILES (*JUGENDLICHE*)

FIRST SUBPART
OFFENSES COMMITTED BY JUVENILES AND THE CONSEQUENCES THEREOF

CHAPTER ONE
GENERAL PROVISIONS

SECTION 3. RESPONSIBILITY

A juvenile is responsible under criminal law when, at the time of the act, he was morally and mentally mature enough to understand the wrongfulness of his act and was able to act according to this understanding. To educate a juvenile who, because of lack of maturity, is not responsible under criminal law, the judge may order the same measures as the family court.

SECTION 4. LEGAL CLASSIFICATION OF OFFENSES COMMITTED BY JUVENILES

The provisions of the general criminal law govern as to whether the unlawful act committed by a juvenile is considered a major or a minor crime and when its prosecution is barred by the statute of limitations.

SECTION 5. CONSEQUENCES OF A JUVENILE OFFENSE

(1) Corrective measures (*Erziehungsmaßregeln*) may be ordered when an offense has been committed by a juvenile.

(2) A juvenile who has committed an offense shall be punished by disciplinary means (*Zuchtmittel*) or by juvenile confinement (*Jugendstrafe*) if corrective measures are not sufficient.

(3) Disciplinary means and juvenile confinement will not be imposed if commitment to a psychiatric hospital or an institution for the treatment of alcoholics or drug addicts (*Entziehungsanstalt*) makes the punishment by the judge superfluous.

SECTION 6. ADDITIONAL CONSEQUENCES

(1) A sentence pronouncing ineligibility to hold public office, to acquire rights resulting from public elections, or to vote with regard to public affairs, shall not be imposed. Publication of the sentence may not be ordered.

(2) The loss of the capacity to hold public office and to acquire rights resulting from public elections (sec 45, para (1), of the German Criminal Code (*Strafgesetzbuch*)) does not occur.

SECTION 7. MEASURES OF REFORM AND PREVENTION

(1) Measures of reform and prevention within the meaning of general criminal law, placement in a psychiatric hospital or in an institution for the treatment of alcoholics and drug addicts, supervision of conduct, or withdrawal of the permission to operate motor vehicles may be ordered (sec 61, nos. 1, 2, 4, and 5, of the German Criminal Code).

(2) If, after a conviction to juvenile confinement of at least seven years for a criminal act or also for a criminal act—

1. Against the life, physical well-being, or sexual self-determination, or

2. Pursuant to section 251 of the German Criminal Code, also in conjunction with section 252 or 255 of the German Criminal Code,

by which the victim suffered serious mental or physical harm or was exposed to the risk of suffering such harm, facts become evident before completion of the execution of the juvenile confinement indicating considerable dangerousness of the convicted person for the public, the court may subsequently order commitment to preventive custody if the overall assessment of the convicted person, of his offense or his offenses and, in addition, his development during the execution of the juvenile confinement show that it is very likely that he will again commit criminal acts of the kind described above.

(3) If commitment to a psychiatric hospital ordered on the basis of one of the criminal acts described in paragraph (2) has been pronounced completed in accordance with section 67d, paragraph (6), of the German Criminal Code, because at the time of the decision on the completion the condition excluding or diminishing the criminal responsibility on which the commitment was based did not exist, the court may subsequently order commitment to preventive custody if—

1. Commitment of the affected person pursuant to section 63 of the German Criminal Code had been ordered based on several criminal offenses of this type, or if the affected person had already been convicted to at least 3 years of imprisonment or had been committed to a psychiatric hospital for one or several criminal acts of this type, which he committed prior to the criminal act resulting in the commitment pursuant to section 63 of the German Criminal Code, and

2. The overall assessment of the affected person, his criminal acts and, in addition, the development he shows by the time the decision is made, show that it is very likely that he will again commit criminal offenses of the type described in paragraph (2).

(4) The regular review period for a decision to suspend a continued execution of the commitment to preventive custody on probation (sec 67e of the German Criminal Code) is 1 year in the cases of paragraphs (2) and (3).

SECTION 8. COMBINING OF MEASURES WITH JUVENILE CONFINEMENT

(1) Corrective measures and disciplinary means, as well as several corrective measures or several disciplinary means, may be ordered in combination with each other. Youth detention may not be combined with a measure ordering correctional guidance measures pursuant to section 12, number 2.

(2) In addition to juvenile confinement, the judge may issue only directives and terms and conditions (*Auflagen*), and order disciplinary guidance. If the prerequisites stipulated under section 16a are applicable, youth detention may also be ordered in addition to the imposition of a juvenile confinement or the suspension of its imposition. If the juvenile is under probation, a concurrently existing disciplinary guidance rests until termination of the probation period.

(3) In addition to corrective measures, disciplinary means, and juvenile confinement, the additional punishments and consequences that are permitted pursuant to this law may be imposed.

CHAPTER TWO
CORRECTIVE MEASURES

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Corrective measures include the following:

(1) Imposition of directives.

(2) Order to subject to correctional guidance measures within the meaning of section 12.

SECTION 10. DIRECTIVES

(1) Directives are orders and interdictions that shall control the life of the juvenile with the purpose of furthering and securing his education. No undue demands may be placed thereby on the juvenile's manner of living. The judge may specifically order the juvenile to—

1. Comply with directives concerning his place of abode,

2. Live with a family or in an institutional home,

3. Start vocational training or take a job,

4. Accomplish specific work,

5. Place himself under the assistance and supervision of a special person (youth assistant) (*Betreuungshelfer*),

6. Attend a social training course,

7. Make an effort to compensate the injured person (compensation of victim by the offender),

8. Discontinue his association with certain individuals or to abstain from visiting restaurants and places of entertainment, or

9. Attend a class on traffic regulations.

(2) With the approval of the parents or legal guardian (*Erziehungsberechtigte*) and the legal representative, the judge may direct the juvenile to undergo social-psychiatric treatment by an expert or a treatment for drug addicts or alcoholics. If the juvenile has completed his 16th year of age, this measure shall be carried out only with his consent.

SECTION 11. DURATION AND SUBSEQUENT CHANGING OF DIRECTIVES; CONSEQUENCES IN CASE OF NONCOMPLIANCE

(1) The judge will determine the duration of the directives. The duration may not exceed 2 years; in case of a directive pursuant to section 10, paragraph (1), sentence 3, number 5, it shall not exceed 1 year; in case of a directive pursuant to section 10, paragraph (1), sentence 3, number 6, it shall not exceed 6 months.

(2) The judge may change directives or release the individual from compliance therewith or extend their duration up to 3 years prior to expiration if this is deemed advisable for educational reasons.

(3) Youth detention (*Jugendarrest*) may be imposed when the juvenile, through his own fault, fails to comply with the directives if he had been previously advised of the consequences of noncompliance. Subsequently imposed youth detention may not exceed a total of 4 weeks in case of a conviction. The judge will refrain from executing youth detention if the juvenile, after imposition of the detention, complies with the directive.

SECTION 12. CORRECTIONAL GUIDANCE MEASURES (*HILFE ZUR ERZIEHUNG*)

In consent with youth office, the judge may oblige the juvenile, under the prerequisites designated in the Eighth Book of the Code of Social Law *(Sozialgesetzbuch*), to subject himself to correctional guidance measures—

1. In the form of disciplinary guidance (*Erziehungsbeistandschaft*) within the meaning of section 30 of the Eighth Book of the Code of Social Law, or

2. In an institution with day and night attendance or in another attended-type of home within the meaning of section 34 of the Eighth Book of the Code of Social Law.

CHAPTER THREE
DISCIPLINARY MEANS

SECTION 13. TYPES AND APPLICATION

(1) In cases where juvenile confinement is not deemed advisable, yet it should be brought home to the juvenile that he must make restitution for the wrong he has committed, the judge shall punish the offender by disciplinary means.

(2) Disciplinary means include—

1. A warning.

2. Imposition of terms and conditions.

3. Youth detention.

(3) Disciplinary means do not have the legal effect of a penalty.

SECTION 14. WARNING

By a warning, the juvenile shall be impressed with the wrongfulness of his act.

SECTION 15. TERMS AND CONDITIONS

(1) The judge may impose on the juvenile the obligation to—

1. Make restitution to the best of his ability for the damage he had caused,

2. Personally apologize to the person on whom the damages or injuries were inflicted,

3. Do specific work, or

4. Make a donation for the benefit of a charitable organization.

No undue demands may be placed thereby on the juvenile.

(2) The judge shall order payment of an amount of money only if the—

1. Juvenile has committed a minor delict and it can be expected that he will make the donation from funds at his own disposal, or

2. Profit the juvenile gained from his act, or the money he received from it, shall be taken away from him.

(3) The judge may subsequently change the terms and conditions or exempt the juvenile from compliance entirely or partly, if this is deemed advisable for educational reasons. In case of culpable noncompliance with terms and conditions, section 11, paragraph (3), applies accordingly. If youth detention has been executed, the judge may declare the terms and conditions as entirely or partly completed.

SECTION 16. YOUTH DETENTION

(1) Youth detention includes detention during free time (*Freizeitarrest*), short-term detention (*Kurzarrest*), or long-term detention (*Dauerarrest*).

(2) Detention during free time imposed on a juvenile involves his weekly free time, and shall include one or two periods of free time.

(3) Short-term detention shall be imposed in place of detention during free time if, for disciplinary reasons, it is deemed advisable that a continued period of detention be served and neither the juvenile's vocational training nor his work is affected. Two days of short-term detention are equal to one detention during free time.

(4) The minimum period of a long-term detention is 1 week, and the maximum period is 4 weeks. It is computed by full days or weeks.

SECTION 16A. YOUTH DETENTION IN ADDITION TO JUVENILE CONFINEMENT

(1) In case the imposition or execution of juvenile confinement is suspended on probation, notwithstanding section 13 paragraph (1), juvenile detention may be imposed in addition if—

1. In consideration of the instruction provided on the importance of the suspension on probation and in consideration of the possibility to impose directions and terms and conditions, this is required in order to make clear to the juvenile that he is responsible for the committed wrongful act and to make him aware of the consequences of other criminal acts,

2. This is necessary in order to keep the juvenile away from an environment with bad influence for a limited period of time and, through the treatment during the execution of youth detention, prepare him for the probation period, or

3. This is required to increase the educational impact on the juvenile during the execution of the youth detention or improve the chances of a successful educational influence during the probation period.

(2) Youth detention pursuant to paragraph (1), number 1, is generally not required if the juvenile already previously served youth detention as long-term detention or was held in pre-trial confinement for a longer period of time.

CHAPTER FOUR
JUVENILE CONFINEMENT

SECTION 17. FORM AND PREREQUISITES

(1) Juvenile confinement is deprivation of liberty in a facility designated for its execution.

(2) The judge imposes juvenile confinement if, due to the detrimental inclinations of the juvenile as revealed by the act, corrective measures or disciplinary means are insufficient for the rehabilitation of the juvenile, or if, due to the seriousness of the offense, confinement is required.

SECTION 18. DURATION OF JUVENILE CONFINEMENT

(1) The minimum period of juvenile confinement is 6 months; the maximum is 5 years. If the act involves a major crime for which the provisions of the general criminal law provide a maximum punishment of more than 10 years imprisonment, the maximum period of the juvenile confinement shall be 10 years. The scope of punishment in the general criminal law does not apply.

(2) The extent of the juvenile confinement shall be determined in such a way that the required correctional effect can be expected.

SECTION 19. (RESCINDED)

CHAPTER FIVE
SUSPENSION OF JUVENILE CONFINEMENT ON PROBATION

SECTION 20. (DELETED)

SECTION 21. SUSPENSION OF PUNISHMENT

(1) If juvenile confinement not exceeding 1 year is imposed, the court shall suspend execution of the punishment on probation if it can be expected that the juvenile will consider the conviction as a warning and if, without the effect obtained by serving the sentence, he will lead a righteous life in the future due to the reforming influence during the probation period. Particularly, the personality of the juvenile, his past life, the circumstances of his act, his conduct after the act, his living conditions, and the anticipated effect of the suspension on him have to be taken into consideration. The court shall suspend execution of the punishment on probation even if the expectation stated in sentence 1 will be supported by the fact that, in addition to the juvenile confinement, youth detention pursuant to section 16a is imposed.

(2) Under the prerequisites of paragraph (1), the court shall also suspend on probation the execution of a longer period of juvenile confinement which does not exceed 2 years, unless execution is advisable with respect to the development of the juvenile.

(3) Suspension of the punishment may not be restricted to a part of the juvenile confinement. It will not be precluded by giving credit for pretrial confinement or for any other deprivation of liberty.

SECTION 22. PROBATION PERIOD

(1) The judge shall fix the probation period. It may not exceed 3 years and may not be less than 2 years.

(2) The probation period starts as soon as the decision concerning suspension of the juvenile confinement becomes final. It subsequently may be reduced to 1 year or, before its expiration, be increased up to 4 years. In the cases of section 21, paragraph (2), however, the probation period may be reduced only to 2 years.

SECTION 23. DIRECTIVES; TERMS AND CONDITIONS

(1) During the probation period, the judge shall exert a corrective influence on the juvenile's conduct by imposing directives. He may also impose terms and conditions on the juvenile. He may issue, change, or cancel these orders subsequently. Section 10, section 11, paragraph (3), and section 15, paragraphs (1), (2), and (3), sentence 2, apply accordingly.

(2) If the juvenile makes assurances with regard to his future conduct or if he declares himself willing to perform adequate tasks that serve as atonement for the committed wrong, the judge, as a rule, shall refrain from imposing directives or terms and conditions for the time being, if compliance with the assurances or proposals can be expected.

SECTION 24. ASSISTANCE DURING PROBATION

(1) The judge will place the juvenile under supervision and guidance of a full-time probation officer for a maximum of 2 years during the probation period. He may also place him under the control of an honorary probation officer if this appears to be advisable for educational reasons. Section 22, paragraph (2), sentence 1, applies accordingly.

(2) The judge may change or revoke a decision taken pursuant to paragraph (1) before the end of the placement period (*Unterstellungszeit*); he may also order new placement of the juvenile during the probation period. In such a case, the maximum period designated in paragraph (1), sentence 1, may be exceeded.

(3) The probation officer shall guide the juvenile and assist him. In agreement with the judge, he will supervise compliance with directives, terms and conditions, promises, and proposals. The probation officer shall promote the education of the juvenile and, if possible, cooperate with the parents or legal guardian and legal representative on a confidential basis. In performing his office, he has the right to visit the juvenile. He may demand information as to the juvenile's conduct from the parents or legal guardian, the legal representative, the school, or his training employer.

SECTION 25. APPOINTMENT AND RESPONSIBILITIES OF THE PROBATION OFFICER

The probation officer shall be appointed by the judge. The judge may give him directions for his activity pursuant to section 24, paragraph (3). At intervals to be determined by the judge, the probation officer shall report concerning the juvenile's conduct. He is to inform the judge of any major or persistent contravention of directives, terms and conditions, promises, and proposals.

SECTION 26. REVOCATION OF THE SUSPENSION OF PUNISHMENT

(1) The court will revoke suspension of the juvenile's punishment if the juvenile—

1. Commits an offense during the probation period showing thereby that the expectation on which the suspension of punishment was based has not been met,

2. Grossly or persistently violates directives or persistently evades the supervision and guidance of the probation officer, thus giving rise to the concern that he will again commit offenses, or

3. Grossly or persistently violates terms or conditions.

First sentence, number 1, applies accordingly if the act was committed in the period between the decision on suspension of the punishment on probation and its becoming final. Section 57, paragraph (5), sentence 1, of the German Criminal Code shall also be applied accordingly if the juvenile confinement was subsequently suspended by decision.

(2) The court, however, will refrain from revoking the suspension if it is sufficient to—

1. Impose further directives or terms and conditions,

2. Extend the probation or placement period to a maximum of 4 years, or

3. Newly place the juvenile under the control of a probation officer before the end of the probation period.

(3) Services rendered by the juvenile in compliance with directives, terms and conditions, promises, or proposals (sec 23) will not be compensated. However, if the court revokes the suspension of punishment, it may credit such services that the juvenile rendered in compliance with terms and conditions or corresponding proposals towards the juvenile confinement. Youth detention imposed pursuant to section 16a will be credited against the juvenile confinement to the extent the youth detention was served.

SECTION 26A. REMISSION OF JUVENILE CONFINEMENT

If the judge does not revoke the suspension of punishment, he shall remit the juvenile confinement after expiration of the probation period. Section 26, paragraph (3), sentence 1, is applicable.

CHAPTER SIX
SUSPENSION OF THE IMPOSITION OF JUVENILE CONFINEMENT

SECTION 27. PREREQUISITES

If, after a complete investigation, no definite determination can be made as to whether a juvenile's detrimental inclinations, as revealed by the offense, are of such nature that imposition of juvenile confinement is required, the judge may establish the guilt of the juvenile; however, he may suspend his decision concerning imposition of juvenile confinement for a probationary period the extent of which he shall determine.

SECTION 28. PERIOD OF PROBATION

(1) The probationary period may not exceed 2 years or be less than 1 year.

(2) The probationary period starts as soon as the sentence establishing the juvenile's guilt becomes final. It may subsequently be reduced to 1 year or be increased up to 2 years before its expiration.

SECTION 29. ASSISTANCE DURING PROBATION

During the period of his probation or part of it, the juvenile will be placed under the supervision and guidance of a probation officer. Section 23; section 24, paragraph (1), first and second sentences, and paragraphs (2) and (3); section 25; and section 28, paragraph (2), sentence 1; shall be applied accordingly.

SECTION 30. IMPOSITION OF JUVENILE CONFINEMENT; ERADICATION OF THE VERDICT

(1) If, through the juvenile's bad conduct during the period of probation, the court discovers that the act of which the juvenile was found guilty is attributable to the detrimental inclinations of the accused and that, therefore, juvenile confinement is required, the court shall impose the same sentence it would have adjudged originally had it known of the juvenile's detrimental inclinations at the time of the original verdict. Section 26, paragraph (3), sentence 3, shall apply accordingly.

(2) If, after expiration of the probationary period, the conditions delineated in paragraph (1), sentence 1, above do not exist, the verdict is eradicated.

CHAPTER SEVEN
SEVERAL OFFENSES

SECTION 31. SEVERAL OFFENSES COMMITTED BY A JUVENILE

(1) Even if a juvenile has committed several offenses, the court shall impose only one type of penalty (corrective measures, disciplinary means, or juvenile confinement). Insofar as it is permitted by this law (sec 8), different disciplinary means and corrective measures may be ordered in combination with each other or measures may be combined with the punishment. The legal maximum limits of youth detention and juvenile confinement may not be exceeded.

(2) If the guilt of the juvenile has already been finally determined for a part of the offenses or if corrective measures, disciplinary means, or juvenile confinement have been imposed but have not been completely executed, served, or otherwise completed of, then only measures or juvenile confinement will be imposed in the same manner as adjudged in the previous sentence. If the court imposes juvenile confinement, it may, in its discretion, give credit for youth detention already served. Section 26, paragraph (3), sentence 3, and section 30, paragraph (1), sentence 2, shall remain unaffected.

(3) If it is advisable for educational reasons the court may refrain from including in the new decision offenses which have already been tried. If it imposes juvenile confinement, it may declare corrective measures and disciplinary means as completed.

SECTION 32. SEVERAL OFFENSES COMMITTED AT DIFFERENT AGES AND MATURITY STATES

In cases where several offenses are tried simultaneously for which the juvenile criminal law and the general criminal law are both applicable, the juvenile criminal law shall be applied for all offenses when the most serious offenses are those which have to be tried under the provisions of the juvenile criminal law. Where this is not the case, general criminal law shall be applied uniformly.

SECOND SUBPART
CONSTITUTION OF THE YOUTH COURTS AND YOUTH CRIMINAL PROCEEDINGS

CHAPTER ONE
CONSTITUTION OF THE YOUTH COURTS

SECTION 33. YOUTH COURTS (*JUGENDGERICHTE*)

(1) Offenses committed by juveniles are tried by youth courts.

(2) Youth courts consist of the criminal court judge (*Strafrichter*), functioning as the youth court judge (*Jugendrichter*); the lay judges court (*Schöffengericht*) (lay judges youth court (*Jugendschöffengericht*)); and the penal chamber (*Strafkammer*) (youth court penal chamber (*Jugendkammer*)).

(3) The State (*Land*) governments are authorized to prescribe by statutory order that a judge at one district court be appointed as youth judge for an area (*Bezirk*) comprising several district courts (area youth judge) and that a common youth lay judges court be established at one district court for the area comprising several district courts. The state governments may delegate the authorization by statutory order to the state agencies responsible for administration of justice.

SECTION 33A. COMPOSITION OF THE LAY JUDGES YOUTH COURT

(1) The lay judges youth court consists of one youth court judge as the presiding judge and two youth court lay judges. For each main trial one man and one woman shall be appointed as youth court lay judges.

(2) In case of decisions taken outside the main trial the youth court lay judges shall not participate.

SECTION 33B. COMPOSITION OF THE YOUTH COURT PENAL CHAMBER

(1) The youth court penal chamber is composed of three judges (including the presiding judge) and two youth court lay judges (major youth court penal chamber (*große Jugendkammer*)), in proceedings on appeals from sentences imposed by the youth court judge it is composed of the presiding judge and two youth court lay judges (minor youth court penal chamber (*kleine Jugendkammer*)).

(2) At the opening of the main proceedings, the major youth court penal chamber shall decide on its composition for the trial. If the main proceedings have already been opened the major youth court penal chamber shall make that decision when the date for the trial is scheduled. The major youth court penal chamber shall decide that the court be composed of three judges (including the presiding judge) and two youth court lay judges if—

1. Pursuant to the general provisions, including the regulation of section 74e of the Law Concerning the Constitution of Courts (*Gerichtsverfassungsgesetz*), the case is subject to the jurisdiction of the criminal court sitting with three professional judges and two lay judges(*Schwurgericht*),

2. Its jurisdiction is based on the reasons provided in section 41, paragraph (1), number 5,

3. Due to the scope or difficulty of the case, participation of a third judge appears necessary.

Otherwise, the major youth court penal chamber shall decide that the court consists of two judges (including the presiding judge) and two youth court lay judges.

(3) Participation of a third judge is normally necessary pursuant to paragraph (2), sentence 3, number 3, if the—

1. Youth court penal chamber has taken over the case pursuant to section 41, paragraph (1), number 2,

2. Main trial will probably last more than 10 days, or

3. Case concerns one of the criminal acts stated in section 74c, paragraph (1), sentence 1, of the Law Concerning the Constitution of Courts.

(4) Paragraph (2) shall apply accordingly in appellate proceedings against a judgment of the youth court penal chamber/ lay judges youth court. The major youth court penal chamber will decide that the court is composed of three judges (including the presiding judge) and two youth court lay judges even if a youth sentence of more than 4 years was adjudged in the appealed judgment.

(5) If the major youth court penal chamber has decided that the court consists of two judges (including the presiding judge) and two youth court lay judges and if, prior to the trial, new circumstances occur which/that, in accordance with paragraphs (2) through (4), require that the court consists of three judges (including the presiding judge) and two youth court lay judges, the major youth court penal chamber shall decide on such a composition of the court.

(6) If a matter has been remanded by the court of appeal (*Revisionsgericht*) or the trial has been suspended, the competent youth court penal chamber may again decide on its composition pursuant to paragraphs (2) to (4).

(7) Section 33a, paragraph (1), sentence 2, and paragraph (2), apply accordingly.

SECTION 34. DUTIES OF THE YOUTH COURT JUDGE

(1) The judge of a youth court fulfills the same duties as a judge at the district court (*Amtsgericht*) in criminal proceedings.

(2) The youth court judge shall be assigned the educational responsibilities of a family court for the juveniles. For special reasons, particularly if the youth court judge is assigned to an area comprising several district courts, this rule may be deviated from.

(3) Educational responsibilities of a family court include—

1. Assisting parents, legal guardian, and any other person having the right of custody, by application of suitable measures (sec 1631, para (3), sec 1800, and sec 1915, of the German Civil Code (*Bürgerliches Gesetzbuch*)),

2. Taking measures to prevent the endangering of a juvenile (secs 1666, 1666a, 1837, para (4), and sec 1915 of the German Civil Code).

SECTION 35. LAY JUDGES IN YOUTH COURTS

(1) The lay judges in youth courts (*Jugendschöffen*) are elected on suggestion of the youth welfare committee for a period of 5 years by a board provided for in section 40 of the Law Concerning the Constitution of Courts. This board shall elect an equal number of men and women.

(2) The youth welfare committee shall suggest as many men as women and must at least double the number of persons required as lay judges and assistant lay judges in youth courts. The prospective lay judges shall be qualified for and experienced in the education of juveniles.

(3) The list of suggestions prepared by the youth welfare committee is considered the list of suggested names as set forth in section 36 of the Law Concerning the Constitution of Courts. Two-thirds of the present voting members, however, at least half of all voting members of the youth welfare committee, must agree to the inclusion of a name in the list. The list of suggested lay judges shall be available in the youth welfare office (*Jugendamt*) for public review for a period of 1 week. The date of availability of the list for inspection shall be published prior thereto.

(4) The judge of the youth court presides over the lay judges' election board in deciding objections to the list prepared by the youth welfare committee as well as in electing the lay judges and assistant lay judges of youth courts.

(5) Separate lists shall be kept for men and women as lay judges in youth courts.

(6) The election of the lay judges in youth courts will take place at the same time as the election of the lay judges for the lay judges courts and the criminal divisions of the court (*Strafkammern*).

SECTION 36. YOUTH COURT PROSECUTOR (*JUGENDSTAATSANWALT*)

Youth court prosecutors are appointed for proceedings that fall under the jurisdiction of youth courts.

SECTION 37. SELECTION OF JUDGES AND PROSECUTORS IN YOUTH COURTS

Judges and prosecutors in youth courts shall be qualified for and experienced in the education of juveniles.

SECTION 38. ASSISTANCE TO YOUTH COURTS (*JUGENDGERICHTSHILFE*)

(1) Assistance to youth courts is furnished by the youth welfare offices in conjunction with other associations for assistance to juveniles.

(2) At the proceedings before the youth courts, the officers rendering assistance to the youth courts introduce the educational, social, and welfare aspects of the case. For this purpose they assist the authorities concerned by investigating the personality, the development, and the environment of the accused and by commenting on the measures that shall be taken. In a case where the accused is under arrest, they will report expeditiously about the results of their investigations. The officer who conducted the investigation shall attend the main trial. If no probation officer is assigned, they ensure that the juvenile follows directives and terms and conditions. They inform the judge of serious contravention. In case of a placement pursuant to section 10, paragraph (1), sentence 3, number 5, they will engage in the assistance and supervision of the juvenile, unless the judge entrusts the task to another person. During the probation period they work in close cooperation with the probation officer. During the time of serving the sentence they keep in close contact with the juvenile and assist him in regaining his position as a member of the community.

(3) The officers rendering assistance to the youth court shall be consulted throughout the proceedings against a juvenile. This shall be done as early as possible. The officers rendering assistance to the youth courts shall always be heard before the issuance of directives (sec 10); if it is considered to place the juvenile under assistance they shall also voice their opinion on who is to be appointed as youth assistant.

CHAPTER TWO
JURISDICTION

SECTION 39. JURISDICTION OF THE YOUTH COURT JUDGE OVER THE SUBJECT MATTER

(1) The youth court judge has jurisdiction over the offenses of a juvenile if it can be expected that only corrective measures, disciplinary means, additional penalties, and the consequences thereof as permitted under this law, or withdrawal of the permission to drive a motor vehicle will be imposed, and if the prosecutor prefers charges before the criminal court judge. The youth court judge has no jurisdiction over cases against juveniles and adults that, pursuant to section 103, are

combined if, according to the provisions of the general law, the judge at the district court would not be competent for the adults. Section 209, paragraph (2), of the Code of Criminal Procedure (*Strafprozessordnung*), applies accordingly.

(2) The youth court judge is not permitted to impose juvenile confinement for a period exceeding 1 year; he may not order commitment to a psychiatric hospital.

SECTION 40. JURISDICTION OF THE YOUTH LAY JUDGES COURT OVER THE SUBJECT MATTER

(1) The youth lay judges court is the competent court for all offenses that do not fall under the jurisdiction of any other type of youth court. Section 209 of the German Code of Criminal Procedure applies accordingly.

(2) Up to the time of the beginning of the trial, the youth lay judges court is authorized, *ex officio*, to request a decision by the juvenile division of the criminal court as to whether or not the case shall be taken over by the juvenile division of the criminal court in view of its special scope.

(3) Before issuance of the decision concerning referral of the case, the presiding judge of the youth penal chamber invites the accused to make a statement, within a time to be fixed, as to whether he will move that evidence be taken before the trial.

(4) The decision of the juvenile division of the criminal court as to whether it assumes or waives jurisdiction over the case is final. The decision concerning the jurisdiction over the case shall be combined with the decision concerning the opening of the proceedings.

SECTION 41. JURISDICTION OF THE YOUTH COURT PENAL CHAMBER (*JUGENDKAMMER*) OVER THE SUBJECT MATTER

(1) As the court of first instance, the juvenile division of the criminal court is the competent court of decision in cases—

1. That, according to the provisions of the general law, including the regulation of section 74e of the Law Concerning the Constitution of the Courts, come under the jurisdiction of the criminal court sitting with three professional judges and two lay judges.

2. That, after submission by the youth lay judges court, due to their special scope, have been accepted by the juvenile division of the criminal court (sec 40, para (2)),

3. Against juveniles and adults that, pursuant to section 103, are combined if, according to the provisions of the general law, a major penal chamber (*große Strafkammer*) would have jurisdiction over the adults,

4. Where the office of the public prosecutor files suit with the juvenile division of the criminal court because of the special need of protection of the persons injured by the criminal offense who are likely to be called as witnesses, and

5. Where the accused is charged with a criminal act of the type described in section 7, paragraph (2), and a higher sentence than/sentence of more than 5 years of juvenile confinement or commitment to a psychiatric hospital is to be expected.

(2) Moreover, the youth penal chamber is the competent court to deal with and to rule on the legal remedy of appeal (*Berufung*) against judgments of the youth court judge and of the youth lay judges court. It also issues the decisions set forth in section 73, paragraph (1), of the Law Concerning the Constitution of Courts.

SECTION 42. LOCAL JURISDICTION

(1) In addition to the judge who exercises jurisdiction pursuant to general procedural law or according to special provisions, the following judges are competent:

1. The judge who, in his function as a judge of the family court, is in charge of the educational care of the accused.

2. The judge of the area in which the defendant, being at liberty, is residing at the time the charges are preferred.

3. As long as the accused has not yet completely served his juvenile confinement, the judge who is in charge of the execution of the sentence.

(2) If possible, the prosecutor shall prefer the charges before the judge of the family court which is in charge of the educational care of the accused; however, so long as the accused has not yet completely served his juvenile confinement, the prosecutor shall prefer the charges before the judge who is in charge of the execution of the sentence.

(3) If the accused changes his residence, the judge may, in agreement with the prosecutor, refer the case to the judge of that area in which the accused resides. If the judge to whom the case has been referred has any objection against handling the case, the next common superior court shall decide the issue.

CHAPTER THREE
CRIMINAL PROCEEDINGS AGAINST JUVENILES

SUBCHAPTER I
PRELIMINARY PROCEEDINGS (*VORVERFAHREN*)

SECTION 43. SCOPE OF INVESTIGATIONS

(1) As soon as possible after initiation of the proceedings, the accused's living and family conditions, his development, his attitudes up to the present time, and all other circumstances that might possibly serve to reach a proper judgment of his moral and mental qualities, as well as the peculiarities concerning his character, shall be investigated. As far as practicable, the parents or legal guardian, the legal representative, and the school instructor or training employer shall be heard. A hearing of the school instructor or the training employer shall be omitted if the juvenile would be put in fear that undesirable prejudice may thereby be caused to him, especially the loss of his apprenticeship or job. Section 38, paragraph (3), shall be considered.

(2) When necessary, an examination of the accused shall be arranged primarily in order to establish the degree of his development or any other peculiarities that are essential for the proceedings. If possible, an expert who is qualified to conduct examinations of juveniles shall be charged with the execution of this order.

SECTION 44. INTERROGATION OF THE ACCUSED

If it is expected that a sentence imposing juvenile confinement will be adjudged, the accused shall be interrogated by the prosecutor or the presiding judge of the youth court before charges are preferred.

SECTION 45. DISCONTINUANCE OF PROSECUTION

(1) The public prosecutor may abstain from prosecuting without concurrence of the judge if the conditions delineated in section 153 of the German Code of Criminal Procedure prevail.

(2) The public prosecutor will abstain from prosecuting if a corrective measure (*erzieherische Maßnahme*) has already been completed or initiated and he does not consider a participation of the judge in accordance with paragraph (3) or preferring of charges necessary. A corrective measure is considered equal to the effort of the juvenile to reach compensation for the injured party.

(3) If the accused has made a confession, the prosecutor may suggest that the youth court judge issue a reprimand, order directives pursuant to section 10, paragraph (1), third sentence, numbers 4, 7, and 9, or terms and conditions if the prosecutor deems ordering of such a judicial measure appropriate but does not consider preferring of charges necessary. If the youth court judge agrees with the suggestion, the prosecutor will refrain from the prosecution; in case directives or terms and conditions were ordered, however, only after the juvenile has complied with them. Section 11, paragraph (3), and section 15, paragraph (3), second sentence, shall not be applied. Section 47, paragraph (3), shall be applied accordingly.

SECTION 46. ESSENTIAL RESULT OF THE INVESTIGATION

In the bill of indictment (sec 200, para (2), of the German Code of Criminal Procedure) the prosecutor shall present the essential result of the investigation in such a way that, if possible, the accused's knowledge thereof is not detrimental to his education.

SUBCHAPTER II
MAIN PROCEEDINGS

SECTION 47. DISCONTINUANCE OF THE PROCEEDINGS BY THE JUDGE

(1) If charges have been preferred, the judge may discontinue the proceedings if—

1. The conditions delineated in section 153 of the German Code of Criminal Procedure prevail,

2. A corrective measure within the meaning of section 45, paragraph (2), making a decision by judgment unnecessary, has already been taken or initiated,

3. The judge deems a decision by judgment unnecessary and orders against the juvenile who has made a confession a measure designated in section 45, paragraph (3), first sentence, or

4. The accused is not responsible under criminal law due to lack of maturity.

In the case of the first sentence, numbers 2 and 3, the judge may, with consent of the public prosecutor, temporarily suspend the proceedings and determine a period of 6 months for the juvenile to comply with the terms and conditions, directives, or corrective measures. The decision is taken by ruling. The ruling cannot be contested. If the juvenile complies with the terms and conditions, directives, or corrective measures, the judge will discontinue the proceedings. Section 11, paragraph (3), and section 15, paragraph (3), second sentence, shall not be applied.

(2) Discontinuance of the proceedings requires approval by the public prosecutor unless he has already given consent to the suspension. The ruling concerning discontinuance may even be issued during the course of the trial. It shall be supported by reasons and it cannot be contested. The accused shall not be informed of the reasons if it is feared that such information will be detrimental to his education.

(3) Charges may be preferred again for the same offense only on the basis of new facts or evidence.

SECTION 47A. PRIORITY OF YOUTH COURTS

A youth court may not decline jurisdiction after the opening of the main proceedings for the reason that the case belongs to a court of the same or lower instance that has general criminal jurisdiction. Section 103, paragraph (2), second and third sentences, remain unaffected.

SECTION 48. CLOSED COURT

(1) The public is excluded during the proceedings before the trial court and during the announcement of the sentence.

(2) In addition to those persons involved in the proceedings, the injured person, the person in charge of his upbringing and his legal representative and, in the event the accused is placed under the supervision and guidance of a probation officer or the assistance and supervision of a youth assistant or an officer exercising disciplinary guidance (*Erziehungsbeistand*) has been appointed for him, the probation officer, youth assistant, or the officer exercising disciplinary guidance are allowed to be present. The same applies to the head of the institution if the juvenile was granted correctional guidance measures in a home or a similar institution. For special reasons, particularly for training purposes, the presiding judge may give permission for other persons to attend.

(3) In the event that adolescents or adults are also accused in the same proceedings, the trial shall be held in open court. The public may be excluded if this is in the best interest of the education of the juvenile accused.

SECTION 49. (RESCINDED)

SECTION 50. PRESENCE AT THE TRIAL

(1) The trial may be held in the absence of the accused only if this would have been permitted in general proceedings, if special reasons exist, and if the prosecutor concurs.

(2) The presiding judge also shall order that the parents or legal guardian and the legal representative be summoned. The provisions concerning the summons, the consequences of failure to appear, and the compensation of witnesses apply accordingly.

(3) The officer rendering assistance to the youth court shall be informed concerning date and location of the trial. On request, he will receive permission to speak.

(4) If an appointed probation officer attends the trial, he shall be heard with regard to the juvenile's development during the probation period. First sentence applies accordingly to an appointed youth assistant and the leader of a social training course attended by the juvenile.

SECTION 51. TEMPORARY EXCLUSION OF PERSONS INVOLVED

(1) The presiding judge shall exclude the accused from the hearing as long as statements are made that might have detrimental effects on his education. He shall inform the accused of the matter that has been discussed in his absence, as far as this is required for his defense.

(2) The presiding judge may also exclude from the hearing persons in charge of the accused's upbringing and his legal representatives if—

1. Their presence might have a detrimental effect from an educational standpoint, because the discussion of the accused's personal situation in their presence might result in substantial difficulties regarding the necessary future cooperation between the stated persons and the agencies rendering assistance to the youth courts for the implementation of sanctions likely to be imposed by the youth court,

2. They are suspected of being involved in the misconduct of the accused, or if they have been convicted for such involvement,

3. There is concern that the life, limb or liberty of the accused, of a witness, or another person is in danger, or of any other type of substantial impairment of the accused's well-being,

4. There is concern that by their presence the finding of the truth will be impaired, or

5. Circumstances are addressed concerning the personal life of a party to the proceedings, a witness or a person injured by an illegal act, the discussion of which, in their presence, would violate interests worthy of protection, unless the interest of the persons in charge of the upbringing of the accused or his legal representatives in the discussion of these circumstances in their presence predominates.

In the cases of sentence 1, numbers 3 through 5, the presiding judge may also exclude from the hearing persons in charge of the upbringing of the injured person and his legal representatives; in the case of number 3 such exclusion is also possible if there is concern that otherwise the well-being of the injured person is considerably impaired. Persons in charge of the upbringing and legal representatives shall be excluded if the prerequisites of sentence 1, number 5, are fulfilled and the exclusion is requested by the person whose personal life is affected. Sentence 1, number 5, does not apply if the persons whose personal lives are affected object to the exclusion in the main hearing.

(3) Section 177 of the Law Concerning the Constitution of Courts shall apply accordingly.

(4) In the cases of paragraph (2), prior to an exclusion, an effort shall be made that the persons leave the court room by common agreement. As soon as they are present again, the presiding judge shall inform the persons in charge of the accused's upbringing and the legal representatives appropriately of the substantial contents of the testimony or other matters heard during their absence.

(5) Exclusion of persons in charge of the upbringing and legal representatives pursuant to paragraphs (2) and (3) is also permissible if they have been appointed as advisors (*Beistand*) (sec 69).

SECTION 52. CONSIDERATION OF PRETRIAL CONFINEMENT IF YOUTH DETENTION IS IMPOSED

If youth detention is adjudged and the purpose of such punishment is achieved entirely or in part by pretrial detention or any type of deprivation of liberty served as a result of the offense, the judge may state in his judgment that the youth detention, or how much thereof, shall not be executed.

SECTION 52A. PRETRIAL CONFINEMENT TO BE CREDITED AGAINST JUVENILE CONFINEMENT

(1) If pretrial confinement or any other measure of deprivation of liberty has been imposed on the accused for an act that is or has been the subject of the proceedings, it will be credited against the juvenile confinement. However, the judge may order that entire or partial credit will not be given if, in view of the conduct of the accused after the act or for educational

reasons, credit is not justified. Educational reasons, as a rule, exist if, when credit is given for deprivation of liberty, the educational effect on the accused still required is not guaranteed.

(2) (Rescinded)

SECTION 53. REFERRAL TO THE FAMILY COURT

If the judge does not impose juvenile confinement, he may, in his judgment, leave the choice of the corrective measures and the order for their execution to the family court. The family court must then order corrective measures if the circumstances on which the sentence was based have not changed.

SECTION 54. GROUNDS OF THE JUDGMENT

(1) If the accused has been found guilty, there will be included in the grounds of the judgment the circumstances determinant of his punishment, of the measures imposed, of the referral to the family court of the choice and order of execution, or of abstaining from disciplinary means and juvenile confinement. The mental, intellectual, and physical peculiarities of the accused shall be particularly taken into consideration.

(2) The accused shall not be informed of the grounds for the judgment if this could have a negative effect on his education.

SUBCHAPTER III
REVIEW PROCEEDINGS

SECTION 55. CONTESTING DECISIONS

(1) A decision ordering merely corrective measures or disciplinary means or leaving the choice and ordering of corrective measures to the discretion of the family court cannot be contested as to the scope of the measures, nor can it be contested for the reason that other or additional corrective measures or disciplinary means should have been ordered or for the reason that the choice and the ordering of the corrective measures have been left to the discretion of the family court. This rule does not apply if the judge has obliged the juvenile to subject himself to correctional guidance measures in accordance with section 12, number 2.

(2) A person who has filed a permissible appeal may not thereafter file an appeal on the grounds of law (*Revision*) against a judgment on appeal. If the accused, the parents or legal guardian, or the legal representative have filed an appeal, none of them is entitled to the legal remedy of appeal on the grounds of law against the judgment on appeal.

(3) The parents or legal guardian or the legal representative of the accused can withdraw the means of review filed by him only with his consent.

(4) If a person concerned, pursuant to paragraph (1), sentence 1, is hindered from appealing a decision or, pursuant to paragraph (2), is unable to appeal the appellate decision, section 356a of the German Code of Criminal Procedure shall apply accordingly.

SECTION 56. PARTIAL EXECUTION OF A UNITARY PUNISHMENT

(1) When an accused has been sentenced to a unitary punishment for several offenses, the court deciding on means of review may, before the trial, declare that the judgment is executable as to a part of the punishment, if the findings of guilt concerning one or several offenses have not been objected to. This rule shall be applied only when it serves the best interest of the accused. The partial punishment shall not exceed the punishment that would have been imposed for those offenses as to which there was no objection to the findings of guilt.

(2) Immediate recourse (*sofortige Beschwerde*) against the decision is permissible.

SUBCHAPTER IV
PROCEDURE CONCERNING SUSPENSION OF JUVENILE CONFINEMENT ON PROBATION

SECTION 57. DECISION CONCERNING THE SUSPENSION

(1) The suspension of juvenile confinement on probation shall be ordered in the sentence or, as long as execution of the sentence has not yet started, by subsequent ruling. If the decision on suspension was not reserved in the judgment, the court that ruled in the case at first instance shall be competent for the subsequent ruling; the public prosecutor and the juvenile shall be heard.

(2) If the court has not reserved the decision on suspension for a subsequent ruling or has denied suspension in the judgment or in a subsequent ruling, a subsequent ordering of the suspension is permitted only if, since the time the judgment or ruling was issued, circumstances were revealed that, alone or in connection with the prior known circumstances, justify suspension of the juvenile confinement on probation.

(3) When directives or terms and conditions (sec 23) are considered, the juvenile shall be asked in appropriate cases whether he is willing to make assurances as to his future conduct or whether he declares himself willing to perform tasks that will serve as atonement for the committed wrong. When the directive to submit to a pedagogic therapeutic treatment or a treatment of drug addicts or alcoholics is considered, the juvenile who has completed his 16th year of age shall be questioned as to whether he will consent to such a treatment.

(4) The fourth sentence of section 260, paragraph (4), and the fourth sentence of section 267, paragraph (3), of the German Code of Criminal Procedure, apply accordingly.

SECTION 58. SUPPLEMENTAL DECISIONS

(1) Decisions that become necessary in consequence of the suspension (secs 22, 23, 24, 26, and 26a) are made by order of the judge. The prosecutor, the juvenile, and the probation officer shall be heard. If a decision pursuant to section 26 or imposition of the youth detention is taken into consideration, the juvenile shall be given an opportunity to make an oral statement before the judge. The order must be supported by reasons.

(2) The judge is also in charge of the execution of the provisional measures pursuant to section 453c of the German Code of Criminal Procedure.

(3) The judge who ordered the suspension is competent. He may assign the authority to issue the decisions, entirely or in part, to the judge of the youth court in the area in which the juvenile resides. Section 42, paragraph (3), second sentence, applies accordingly.

SECTION 59. CONTESTING (DECISIONS RELATING TO SUSPENSION OF JUVENILE CONFINEMENT)

(1) Immediate recourse may be lodged against a decision by which suspension of juvenile confinement has been ordered or denied when the decision alone is contested, or in combination with the decision on the ordering of youth detention pursuant to section 16a. This also applies when a sentence is contested merely because the punishment has not been suspended.

(2) Recourse may be lodged against a decision concerning the probation period (sec 22), the placement period (sec 24), new order of placement during the probation period (sec 24, para (2)), and directives or terms and conditions (sec 23). The recourse can only be based on the fact that the probation or placement period has been extended subsequently, a new order of placement was issued, or that one of the orders is illegal.

(3) Immediate recourse is permitted against revocation of the suspension of juvenile confinement (sec 26, para (1)).

(4) The order concerning remission of the penalty (sec 26a) is not contestable.

(5) When a permissible appeal on issues of law is filed against a sentence and recourse is lodged against a decision concerning suspension of juvenile confinement on probation ordered by that sentence, the court of appeal is also competent to rule on the recourse.

SECTION 60. PROBATION PROGRAM

(1) The presiding judge will prepare a probation program specifying the ordered directives and terms and conditions. He shall hand the program to the juvenile informing him at the same time about the importance of the suspension, the probation and placement period, the directives and terms and conditions, as well as about the possibility of the revocation of the suspension. The juvenile shall also be directed to report any change of residence, place of apprenticeship, or place of work during the probation period. If subsequent changes are made in the probation program, the juvenile shall be advised of the substance thereof.

(2) The name of the probation officer shall be listed in the probation program.

(3) The juvenile shall confirm by his signature that he has read the probation program and shall promise that he will comply with its directives and terms and conditions. The parents or legal guardian and the legal representative shall also sign the probation program.

SECTION 61. RESERVATION OF SUBSEQUENT DECISION ON SUSPENSION

(1) In the judgment, the court may specifically reserve the decision on suspension of the juvenile confinement on probation for a subsequent ruling if—

1. After the possibilities of investigation have been exhausted, the findings cannot yet justify the expectation required pursuant to section 21, paragraph (1), sentence 1, and

2. Based on indications in the juvenile's conduct or other specific circumstances, there is a chance that such expectation will be justified within the foreseeable future (sec 61a, para (1)).

(2) Such reservation may also be made if—

1. During the main trial, circumstances of the type designated in paragraph (1), number 2, have occurred, which, alone or in connection with other circumstances, could justify the expectation required pursuant to section 21, paragraph (1), sentence 1,

2. The findings with regard to the important circumstances under number 1 would require further investigations, and

3. An interruption or suspension of the main trial would result in delays that would be unfavorable under educational aspects or disproportionate.

(3) If the reservation is made in the judgment, section 16a shall apply accordingly. The reservation shall be included in the operative part of the judgment. The reasons for the judgment must state the determining circumstances. At pronouncement of the judgment the juvenile shall be advised of the importance of the reservation and his conduct during the time until the subsequent decision.

SECTION 61A. TIME LIMIT AND COMPETENCE FOR THE RESERVED DECISION

(1) The reserved decision shall be rendered at the latest 6 months after the judgment has become final. With the reservation, the court may determine a shorter time limit. For special reasons and with the agreement of the sentenced person, the time limit pursuant to sentence 1 or 2 may be fixed in a decision at a maximum of 9 months after the judgment has become final.

(2) The court in whose judgment the basic facts were last reviewed is competent to render the reserved decision.

SECTION 61B. ADDITIONAL DECISIONS IN CASE OF RESERVATION OF THE DECISION ON SUSPENSION

(1) The court may impose terms and conditions on the juvenile for the time between the finality of the judgment and the expiration of the decisive period pursuant to section 61a, paragraph (1). Section 10, section 15, paragraphs (1) and (2), section 23, paragraph (1), sentences 1 through 3, and paragraph (2), apply accordingly. For this time, the court shall order that the juvenile be put under the supervision and care of a probation officer. This measure shall only be refrained from if sufficient care and supervision by the officers rendering assistance to the youth courts is ensured. Otherwise, sections 24 and 25 shall apply accordingly. The probation officer and the officer rendering assistance to the youth courts work closely together. In this connection, they are authorized to exchange personal data on the sentenced person if this is necessary for the

respective other side to appropriately fulfill the tasks of care and supervision. Section 58, paragraph (1), sentences 1, 2 and 4, paragraph (3), sentence 1, as well as section 59, paragraphs (2) and (5), apply accordingly to the decisions pursuant to this paragraph. The provisions of section 60 shall apply correspondingly.

(2) Section 453c of the German Code of Criminal Procedure and section 58, paragraphs (2) and (3), sentence 1, shall apply accordingly if, prior to the expiration of the decisive period pursuant to section 61a, paragraph (1), there are sufficient reasons to assume that a suspension of the juvenile confinement on probation will be denied.

(3) If the juvenile confinement is suspended on probation, the time from the date when the judgment, in which the suspension was reserved for a subsequent decision, becomes final, until the date the decision on the suspension becomes final will be credited against the probation period determined based on section 22.

(4) If the suspension is denied, the court may credit efforts taken by the juvenile to fulfill terms, conditions, promises, or offerings against the juvenile confinement. The court must give credit for the efforts if otherwise the legal consequences of the offense would exceed the degree of guilt. Section 26, paragraph (3), sentence 3, shall apply accordingly with regard to youth detention imposed based on section 16a (sec 61, para (3), sent 1).

SUBCHAPTER V
PROCEDURE CONCERNING SUSPENSION OF IMPOSITION OF JUVENILE CONFINEMENT

SECTION 62. DECISIONS

(1) Decisions pursuant to sections 27 and 30 shall be made by judgment on the basis of the trial. As to decisions concerning suspension of the imposition of juvenile confinement, section 267, paragraph (3), fourth sentence of the German Code of Criminal Procedure, applies correspondingly.

(2) With the agreement of the prosecutor, eradication of the findings of guilty after expiration of the probation period may be ordered in a decision even without trial.

(3) If a trial held during the probation period does not reveal the necessity of imposing juvenile confinement (sec 30, para (1)), an order shall be issued stating that the decision concerning imposition of the punishment remains suspended.

(4) For all other decisions that are required as a result of the suspension of imposition of juvenile confinement, section 58, paragraph (1), first, second, and fourth sentences, and paragraph (3), first sentence, apply correspondingly.

SECTION 63. CONTESTING (DECISIONS RELATING TO ERADICATION OF THE VERDICT AND THE SUSPENSION OF JUVENILE CONFINEMENT)

(1) A decision eradicating the verdict after expiration of the probation period (sec 62, para (2)) or the decision suspending juvenile confinement (sec 62, para (3)) cannot be contested.

(2) Otherwise, section 59, paragraphs (2) and (5), apply correspondingly.

SECTION 64. PROBATION PROGRAM

Section 60 applies correspondingly. The juvenile shall be advised as to the importance of the suspension, the probation and placement period, the directives and terms and conditions, and he shall be informed that he must expect imposition of juvenile confinement if he conducts himself badly while on probation.

SUBCHAPTER VI
SUPPLEMENTAL DECISIONS

SECTION 65. SUBSEQUENT DECISIONS CONCERNING DIRECTIVES; TERMS AND CONDITIONS

(1) Subsequent decisions that refer to directives (sec 11, paras (2) and (3)) or terms and conditions (sec 15, para (3)) shall be made by order of the judge of the first instance after having heard the prosecutor and the juvenile. When necessary, officers rendering assistance to the youth court, the youth assistant appointed in accordance with section 10, paragraph (1), third sentence, number 5, and the instructor of social training course acting pursuant to section 10, paragraph (1), third sentence, number 6, shall be heard. If imposition of juvenile confinement is taken into consideration, the juvenile shall be given an opportunity to make an oral statement before the judge. The judge can transfer the proceedings to the youth court

judge in whose area the juvenile resides, in case he has changed his residence. Section 42, paragraph (3), sentence 2, applies accordingly.

(2) If the judge has refused to change the directives, the order cannot be contested. When he has imposed youth detention, immediate recourse may be filed against the order. This has a delaying effect.

SECTION 66. SUPPLEMENTATION OF FINAL DECISIONS IN CASE OF CONVICTION FOR SEVERAL CHARGES

(1) If no unitary punishment regarding measures or juvenile confinement (sec 31) has been imposed and if the corrective measures, disciplinary means, or juvenile confinement adjudged by final decisions have not yet been completely carried out or served or have not been otherwise disposed of, the judge shall subsequently make an appropriate decision. This provision is not applicable when the judge refrained from including offenses where a final conviction has been pronounced, in accordance with section 31, paragraph (3).

(2) On motion of the prosecutor or when it is deemed advisable by the presiding judge, the decision shall be made by judgment based on a trial. When no trial is held, the judge shall decide by order. Concerning the jurisdiction and the procedure of rulings, the same provisions apply as for the subsequent establishment of a cumulative punishment pursuant to the general provisions. When juvenile confinement has been served partially, the judge who is responsible for the duties of the officer in charge of the execution of the sentence has jurisdiction.

SUBCHAPTER VII
PROVISIONS CONCERNING JOINT PROCEEDINGS

SECTION 67. POSITION OF THE PARENTS OR LEGAL GUARDIAN AND THE LEGAL REPRESENTATIVE

(1) To the extent that the accused has a right to be heard, to ask questions, and to file motions, or to be present at the investigation, his parents or legal guardian, and his legal representative have the same right.

(2) When it is provided that a notification be directed to the accused, the respective notification shall be directed to the parents or legal guardian and the legal representative.

(3) The parents or the legal guardian have the same right to choose a defense counsel and to introduce legal defenses as the legal representative.

(4) The judge may withdraw the above rights from the parents or legal guardian and the legal representative if they are suspected of having participated in the offense committed by the accused or if they have been convicted on account of such participation. When the conditions delineated in the first sentence apply to either the parents or legal guardian or the legal representative, the judge may withdraw these rights from all of them if abuse of the rights can be anticipated. When the parents or legal guardian and the legal representative are no longer entitled to exercise their rights, the family court will appoint a curator to defend the interests of the accused in the criminal proceedings pending before the court. The trial shall be suspended until the curator has been appointed.

(5) When several persons are vested with rights and duties pertaining to the juvenile's education, each of them may exercise the rights of parents or legal guardian as provided by this law. At a trial or at any other hearing before the judge, the absent parent or legal guardian is considered represented by the one who is present. When notification or summonses are ordered, it suffices if they are directed to one parent or legal guardian.

SECTION 68. MANDATORY DEFENSE

The presiding judge shall appoint a defense counsel for the accused if—

1. A defense counsel would have to be appointed for an adult,

2. Pursuant to this law, rights are withdrawn from the parents or legal guardian and the legal representative,

3. The person in charge of the upbringing and the legal representative have been excluded from the hearing pursuant to section 51, paragraph (2), and an impairment in the safeguarding of their rights cannot be compensated sufficiently by subsequent information (sec 51, para (4), sent 2),

4. For the purpose of preparing an expert's opinion concerning the stage of the accused's mental development (sec 73), his commitment to an institution is considered, or

5. The juvenile is serving pretrial confinement or is temporarily committed to an institution pursuant to section 126a of the German Code of Criminal Procedure, as long as he has not completed 18 years of age; the defense counsel will be appointed immediately.

SECTION 69. ASSISTANCE (*BEISTAND*)

(1) At any stage of the proceedings, the presiding judge may appoint an adviser (not a lawyer) for the accused when a mandatory defense is not required.

(2) The parents or legal guardian and the legal representative shall not be designated as adviser when it is to be expected that this would be detrimental for the accused's education.

(3) The adviser may be granted the right to examine the records. At the trial, he may exercise the rights of a defense counsel.

SECTION 70. NOTIFICATION

The officer rendering assistance to the youth court, if suitable, the family court and the school shall be notified of the initiation and the outcome of the proceedings. They shall notify the prosecutor when it becomes known to them that another criminal action is pending against the accused. The family court also notifies the public prosecutor of measures ordered by the family court, as well as about their modification or revocation, unless the family court determines that the interests to withhold the information of the accused or of other persons affected by the notification, which are worthy of protection, are more important.

SECTION 70A. INSTRUCTIONS

(1) Required instructions given to the juvenile must be adequate to his stage of development and level of education. They shall also be directed to the persons in charge of his upbringing and his legal representatives present in the court room and must be given in a way as to enable them to fulfill their responsibilities regarding the subject matter of the instruction. If persons in charge of the juvenile's upbringing and legal representatives are not present when the juvenile is instructed on the importance of the legal consequences ordered by the court, the instructions must be provided to them in writing.

(2) If juvenile or adolescent codefendants who are only sentenced to corrective measures or disciplinary means are present while instructions are given on the importance of the suspension of a juvenile detention on probation or on the importance of the reservation of such a suspension for a subsequent decision, the instruction shall also make them aware of the importance of the decision.

SECTION 71. TEMPORARY DIRECTIVES CONCERNING EDUCATION

(1) Until the judgment becomes final, the judge may issue temporary directives concerning the education of the juvenile or propose granting of benefits in accordance with the Eighth Book of the Code of Social Law.

(2) The judge can order temporary commitment to an adequate home of the youth welfare authority (*Jugendhilfe*) when such a measure is advisable with regard to the measures to be expected to prevent the juvenile from a further endangering of his development, in particular his committing new offenses. Concerning temporary commitment, sections 114 through 115a, 117 through 118b, 120, 125, and 126 of the German Code of Criminal Procedure apply correspondingly. Execution of temporary commitment is determined by the provisions prevailing for the home of the youth welfare authority.

SECTION 72. PRETRIAL CONFINEMENT

(1) Pretrial confinement may be imposed and executed only when the purpose for which it was imposed cannot be achieved by a temporary directive concerning the education of the accused or by any other measures. When assessing the proportionality (sec 112, para (1), sent 2, of the German Code of Criminal Procedure), the serious strain caused to the juvenile by execution of the sentence shall be considered. When pretrial confinement is imposed, the warrant of arrest shall list the reason why other measures, in particular temporary commitment to a home of the youth welfare authority, are not sufficient and that pretrial confinement is not disproportionate.

(2) As long as the juvenile has not reached 16 years of age, imposition of pretrial confinement due to risk of escape is only permissible if he has—

1. Already evaded the proceedings or made preparations to escape, or

2. No permanent residence or abode within the territorial scope of this law.

(3) The judge who issued the warrant of arrest or, in urgent cases, the youth court judge in whose area the pretrial detention is to be served, decides with respect to the execution of a warrant of arrest or the measures that must be taken to avoid its execution.

(4) Temporary commitment to a home of the youth welfare authority may be ordered (sec 71, para (2)) under the same conditions as a warrant of arrest can be issued. In this case the judge may subsequently substitute a warrant of arrest for a temporary commitment order when such action proves necessary.

(5) When the juvenile is in pretrial confinement, the proceedings shall be conducted with particular expedition.

(6) When cogent reasons exist, the competent judge may transfer the authority for making decisions concerning pretrial confinement to another youth court judge entirely or in part.

SECTION 72A. CONSULTATION OF THE OFFICERS RENDERING ASSISTANCE TO YOUTH COURTS IN CONFINEMENT CASES

The officers rendering assistance to the youth court shall be informed immediately about the execution of a warrant of arrest; they shall be notified when a warrant of arrest is issued. The officers rendering assistance to the youth court shall be informed about pretrial confinement of the juvenile, if, according to the state of investigations, it can be expected that the juvenile will be brought before the judge in accordance with section 128 of the German Code of Criminal Procedure.

SECTION 72B. CONTACT WITH OFFICERS RENDERING ASSISTANCE TO THE YOUTH COURT, THE YOUTH ASSISTANT AND THE OFFICER EXERCISING DISCIPLINARY GUIDANCE

If a juvenile is in pretrial confinement, officers rendering assistance to the youth court are allowed to be in contact with the accused to the same extent as a defense counsel. If the accused is rendered assistance and supervision by a youth assistant or an officer exercising disciplinary guidance has been appointed for him, this also applies to the assistant or the officer exercising disciplinary guidance.

SECTION 73. COMMITMENT TO AN INSTITUTION FOR OBSERVATION

(1) In order to obtain an expert's opinion concerning the mental and physical development of the accused the judge may, after having heard an expert and the defense counsel, order that the accused be transferred to a suitable institution for the purpose of an examination and observation. Decisions in the preliminary proceedings are made by the judge having jurisdiction to open the main proceedings.

(2) An immediate recourse may be filed against the decision. Such protest has a delaying effect.

(3) Detention in the institution shall not exceed a period of 6 weeks.

SECTION 74. COSTS AND EXPENSES

In proceedings against juveniles the charging of the accused with the costs and expenses may be waived.

SUBCHAPTER VIII
SIMPLIFIED YOUTH COURT PROCEEDINGS

SECTION 75. (DELETED)

SECTION 76. PREREQUISITES FOR SIMPLIFIED YOUTH COURT PROCEEDINGS

The prosecutor may request, in writing or orally, to the youth court judge that the case be decided in simplified youth court proceedings, when it is to be expected that the youth court judge will exclusively issue directives, order correctional guidance measures within the meaning of section 12, number 1, impose disciplinary means, impose a prohibition to drive, withdraw the driver's license, and impose a bar (*Sperre*) not exceeding 2 years, or order a forfeiture or confiscation. The motion of the prosecutor is equivalent to the preferring of charges.

SECTION 77. DENIAL OF THE MOTION

(1) The judge of the youth court will refuse to dispose of the case by simplified proceedings when the matter is not suitable for such proceedings, particularly if correctional guidance measures within the meaning of section 12, number 2, or imposition of juvenile confinement is probable or if the obtaining of a considerable amount of evidence is required. The decision may be issued at any time before announcement of the judgment. It is not contestable.

(2) If the judge of the youth court refuses to dispose of the case by simplified proceedings, the prosecutor files an indictment.

SECTION 78. PROCEDURE AND DECISION

(1) In simplified youth court proceedings the youth court judge makes his decision by judgment on the basis of an oral hearing. He may not order correctional guidance measures within the meaning of section 12, number 2, juvenile confinement, or placement in an institution for the treatment of drug addicts or alcoholics.

(2) The prosecutor is not obligated to attend the hearing. If he does not attend, his agreement concerning discontinuance of the proceedings during the hearing or continuing the proceedings in absence of the accused is not required.

(3) In order to simplify and expedite the proceedings and to make them appropriate to juveniles, deviation from the rules of procedure is permissible if the search for the truth is not impaired. The regulations concerning the presence of the accused (sec 50), the position of the parents or legal guardian and the legal representative (sec 67), and notification concerning decisions (sec 70) must be observed. If the accused stays absent from the hearing without sufficient excuse for this absence, his bringing before the court can be ordered, if a warning to that effect was given in the summons.

SUBCHAPTER IX
EXCLUSION OF PROVISIONS OF GENERAL PROCEDURAL LAW

SECTION 79. PENAL ORDER (*STRAFBEFEHL*) AND EXPEDITED PROCEEDINGS

(1) A penal order may not be issued against a juvenile.

(2) Expedited proceedings provided for in the general procedural law are not permissible.

SECTION 80. PRIVATE COMPLAINT AND INTERVENTION

(1) No private complaint may be filed against a juvenile. An offense, which under the provisions of the general law may be prosecuted on private complaint, is also prosecuted by the public prosecutor when this is required for educational reasons or because of a justified interest of the injured party that does not contravene the correctional purpose of the proceedings.

(2) Countercharges against a juvenile private complainant are permitted. However, juvenile confinement may not be imposed.

(3) Only such person is allowed to join an initiated public action as an intervener who was injured by a criminal act against life, physical well-being, or sexual self-determination, or pursuant to section 239, paragraph (3), section 239a, or section 239b of the German Criminal Code, by which the victim was either seriously harmed mentally or physically or exposed to the danger of such harm, or by a criminal offense pursuant to section 251 of the Criminal Code, also in conjunction with section 252 or section 255 of the German Criminal Code. Otherwise section 395, paragraph (2), number 1, paragraphs (4) and (5), and sections 396 to 402 of the German Code of Criminal Procedure shall apply accordingly.

SECTION 81. COMPENSATION OF THE INJURED PARTY

The provisions of the German Code of Criminal Procedure concerning compensation of the injured party (secs 403 through 406c of the German Code of Criminal Procedure) are not applicable in proceedings against a juvenile.

SUBCHAPTER X
ORDERING OF PREVENTIVE CUSTODY

SECTION 81A. PROCEDURE AND DECISION

(1) Section 275a of theGerman Code of Criminal Procedure and sections 74f and 120a of the Law Concerning the Constitution of Courts shall apply correspondingly to the procedure and the decision concerning the ordering of commitment to preventive custody.

(2) If a decision must be made on the subsequent ordering of preventive custody pursuant to section 7, paragraph (2), the authority responsible for the execution of the sentence shall send the files to the office of the public prosecutor at the competent court in due time. If the public prosecutor's office is considering subsequent ordering of preventive custody, it shall notify the person concerned accordingly. The public prosecutor's office must file the request for subsequent preventive custody at the latest 6 months prior to the point in time when the execution of the youth detention or measure of reform and prevention involving deprivation of liberty imposed against the person concerned ends. Together with its request, the public prosecutor's office will immediately hand the files over to the court's presiding judge.

THIRD SUBPART
EXECUTION AND SERVING OF THE SENTENCE[6]

CHAPTER ONE
EXECUTION

SUBCHAPTER I
STRUCTURE OF THE EXECUTION APPARATUS AND JURISDICTION

SECTION 82. OFFICER IN CHARGE OF THE EXECUTION OF THE SENTENCE (*VOLLSTRECKUNGS-LEITER*)

(1) The youth court judge is the officer in charge of the execution of the sentence. He also performs the tasks that the German Code of Criminal Procedure assigns to the penal execution chamber (*Strafvollstreckungskammer*).

(2) If the judge has ordered correctional guidance measures within the meaning of section 12, any further competence is determined by the regulations of the Eighth Book of the Code of Social Law.

(3) In the cases of section 7, paragraphs (2) and (3), the execution and the commitment as well as the responsibility for them are subject to the provisions of the Code of Criminal Procedure, if the affected person has completed 21 years of age.

SECTION 83. DECISIONS IN EXECUTION PROCEEDINGS

(1) The decisions of the officer in charge of the execution of the sentence pursuant to sections 86 through 89a and 89b, paragraph (2), as well as pursuant to sections 462a and 463 of the German Code of Criminal Procedure are decisions by a youth court judge.

(2) For all decisions of the court that become necessary for the execution contrary to an order given by the officer in charge of the execution, the youth court penal chamber (*Jugendkammer*) is competent in those cases in which—

1. The officer in charge of the execution of the sentence or, under his presidency, the youth lay judges court in the first instance has pronounced a sentence.

2. The officer in charge of the execution of the sentence, performing the tasks of the penal execution chamber, would have to rule on his own order.

(3) The decisions pursuant to paragraphs (1) and (2) may be contested by immediate recourse unless otherwise provided. Sections 67 to 69 apply accordingly.

SECTION 84. LOCAL JURISDICTION

(1) The youth court judge is charged with the execution of the sentence in all cases that he tried himself or where he was the presiding judge of a youth lay judges court of the first instance.

(2) When, with the exception of the cases listed in paragraph 1 above, the sentence imposed by another judge must be executed, the youth court judge of the district court who is charged with the educational duties of a family court will initiate the execution. If in such cases the convicted person is of age, the youth court judge of the district court who would be in charge of the educational responsibilities as the family court if the person was under age, is competent to initiate the execution of the sentence.

(3) In the cases of paragraphs (1) and (2) above, the youth court judge directs the execution, unless otherwise provided by section 85.

SECTION 85. DELEGATION AND TRANSFER OF THE DUTY TO EXECUTE THE SENTENCE

(1) When youth detention is to be executed, the youth court judge who has immediate jurisdiction must delegate the responsibility to execute the sentence to the youth court judge who, pursuant to the provisions of section 90, paragraph (2), second sentence, is the competent officer charged with the supervision of the serving of the sentence (*Vollzugsleiter*).

(2) When juvenile confinement is to be executed and after the convicted person has been admitted to a facility for the execution of juvenile confinement, the authority to execute the punishment is transferred to the youth court judge of that district court in whose district the facility for the execution of juvenile confinement is located. The *Land* governments are authorized to determine by statutory order (*Rechtsverordnung*) that the authority for the execution be transferred to the youth court judge of another district court if such measure seems convenient due to traffic-related reasons. By statutory order, the *Land* governments can transfer the authority to their judicial administrative authorities.

(3) If a *Land* maintains a facility for the execution of juvenile confinement on the territory of another *Land*, the *Länder* concerned can agree that the youth court judge of a district court of that *Land* maintaining the facility for the execution of juvenile confinement shall be competent. If such an agreement is reached, responsibility for the execution is transferred to the youth court judge of that district court in whose district the supervisory authority responsible for the facility for the execution of juvenile confinement has its official residence. The government of the *Land* running the facility for the execution of juvenile confinement will be authorized to determine by statutory order that the youth court judge of another district court be competent if this appears more convenient due to traffic-related reasons. By statutory order the *Land* government can transfer the authority to its judicial administrative authority.

(4) Paragraph (2) applies accordingly to the execution of a measure of prevention and reform pursuant to section 61, number 1 or 2, of the German Criminal Code.

(5) For good cause, the officer in charge of the execution of the sentence may delegate this authority to another youth court judge who normally would not be or is no longer competent; this delegation, however, can be revoked.

(6) When the convicted person has reached 24 years of age, the officer in charge of the execution of the sentence competent pursuant to paragraphs (2) through (4) can transfer the responsibility for the execution of a juvenile confinement executed in accordance with the provisions on the execution of a sentence for adults, or a measure of reform and prevention, to the execution authority competent pursuant to the general provisions when it can be expected that the execution of the sentence or measure will continue for a longer period and the special basic principles of the criminal law relating to young offenders (*Jugendstrafrecht*) with regard to the personality of the convicted person are no longer applicable to subsequent decisions; the transfer has a binding effect. With the transfer the provisions of the German Code of Criminal Procedure and the Law Concerning the Constitution of the Courts on the execution of a sentence are to be applied.

(7) Section 451, paragraph (3), of the German Code of Criminal Procedure applies accordingly to the competence of the office of the public prosecutor during the proceedings to execute the sentence.

SUBCHAPTER II
YOUTH DETENTION

SECTION 86. TRANSFORMATION OF FREE TIME DETENTION

The officer in charge of the execution of the sentence may transform the free-time detention to short-term detention if the prerequisites set forth in section 16, paragraph (3), occurred subsequently.

SECTION 87. EXECUTION OF YOUTH DETENTION

(1) Youth detention cannot be suspended on probation.

(2) Section 450 of the German Code of Criminal Procedure shall apply accordingly to the crediting of pretrial confinement to youth detention.

(3) The officer in charge of the execution of the sentence will refrain from execution of the entire youth detention, or, when part of the youth detention has been served, the execution of the remaining portion, if, since the passing of the judgment, circumstances have occurred which alone or in conjunction with the circumstances already known justify such action for educational reasons. When 6 months have elapsed since the decision became final, he will refrain from executing if it is advisable for educational reasons. He may entirely refrain from executing juvenile detention if it can be anticipated that juvenile detention, in addition to a punishment that has been imposed on the convicted person for any other act or that he may expect for another act, will no longer achieve its educational purpose. Before making a decision in this regard, the officer in charge of the execution of the sentence shall, if possible, consult the court that tried the case, the prosecutor, and the officers rendering assistance to the youth court.

(4) Execution of youth detention is barred if 1 year has elapsed since the day the sentence became final. In case of section 16a, execution may no longer be started if 3 months have elapsed since the judgment became final. Youth detention that was imposed pursuant to section 16a but has not yet been served will no longer be executed if the court—

1. Revokes the suspension of the juvenile confinement (sec 26, para (1)),

2. Imposes juvenile confinement and suspends execution on probation (sec 30, para (1), sent 1), or

3. Denies suspension of juvenile confinement in a subsequent decision (sec 61a, para (1)).

SUBCHAPTER III
JUVENILE CONFINEMENT

SECTION 88. SUSPENSION OF THE REMAINDER OF JUVENILE CONFINEMENT

(1) The officer in charge of the execution of the sentence may suspend on probation execution of the remaining juvenile confinement if the convicted person has served part of the sentence and if such measure can be justified with regard to the development of the juvenile and also in consideration of public safety.

(2) When less than 6 months have been served, suspension on probation of the execution of the remaining part of the sentence may be ordered only for especially important reasons. When juvenile confinement of more than 1 year has been imposed, it is permitted only if the accused has served at least one-third of the sentence.

(3) The officer in charge of the execution of the sentence shall make his decision in the cases of paragraph 1 and 2 early enough so that measures can be taken to prepare the convicted person for his life after his release. He can revoke his decision until the release of the convicted person if, based on new facts or facts that become known regarding the development of the juvenile, also in consideration of public safety, suspension can no longer be justified.

(4) The officer in charge of the execution of the sentence decides after having heard the prosecutor and the officer supervising the serving of the sentence. The convicted person shall be given the opportunity to make oral statements.

(5) The officer in charge of the execution of the sentence may establish periods of not more than 6 months prior to the expiration of which a request of the convicted person to suspend the remaining sentence on probation is not permissible.

(6) If the officer in charge of the execution of the sentence orders suspension of the execution of the remaining sentence to juvenile confinement, section 22, paragraphs (1) and (2), sentences 1 and 2, as well as sections 23 through 26a apply correspondingly. The officer in charge of the execution of the sentence succeeds to the position of the judge who tried the case. Section 58, section 59, paragraphs (2) through (4), and section 60 apply correspondingly concerning the procedure and the appeal from the decision. Appeal by the office of the public prosecutor from the decision ordering suspension of the remaining sentence suspends the effect of the decision.

SECTION 89. JUVENILE CONFINEMENT IN CASE OF RESERVATION OF THE DECISION ON SUSPENSION

If the court has reserved the decision to suspend the juvenile confinement on probation for a subsequent ruling, the juvenile confinement may not be executed before the decisive period pursuant to section 61a, paragraph (1), has expired. This does not apply if an earlier decision rendered on the basis of the reservation denied the suspension.

SECTION 89A. INTERRUPTION AND EXECUTION OF JUVENILE CONFINEMENT IN ADDITION TO PRISON SENTENCE

(1) If the convicted person sentenced to juvenile confinement also has to serve a prison sentence, juvenile confinement, as a rule, will be executed first. The officer in charge of the execution of the sentence interrupts execution of the juvenile confinement if half of the term, however at least 6 months, of juvenile confinement have been served. He may interrupt execution at an earlier point in time if suspension of the remaining sentence is taken into consideration. Execution of a remaining portion of a sentence that is executed because its suspension was revoked may be interrupted if half of it, however at least 6 months, of the remaining sentence have been served and a new suspension is taken into consideration. A remaining part of a sentence which is executed based on a revocation of its suspension may be interrupted after half of the remaining sentence, however, at least six months were served and a new suspension is being considered. Section 454b, paragraph (3), of the German Code of Criminal Procedure, applies accordingly.

(2) If, in addition to a life prison sentence, juvenile confinement is to be executed against the convicted person, only the life prison sentence will be executed if the last sentencing relates to an offense committed by the convicted person prior to the previous conviction; the judgment of the proceedings in which the basic actual facts could last be assessed will be considered the conviction. When the court suspends the remaining portion of a life prison sentence on probation, the court will dispose of the execution of the juvenile confinement.

(3) In the cases of paragraph (1), section 85, paragraph (6), applies accordingly subject to the proviso that the officer in charge of the execution of the sentence can transfer the execution of juvenile confinement when the convicted person has reached 21 years of age.

SECTION 89B. EXCEPTION FROM EXECUTION OF JUVENILE CONFINEMENT

(1) A convicted person who is 18 years old and is not fit for the execution of juvenile confinement may be ordered to serve the sentence pursuant to the provisions on the execution of a prison sentence for adults instead of the provisions on the execution of a prison sentence for juveniles. If the convicted person is 24 years old the sentence to juvenile confinement shall be executed pursuant to the provisions on the execution of a prison sentence for adults.

(2) The official in charge of the execution of the sentence shall decide on the exception from the execution of juvenile confinement.

SUBCHAPTER IV
PRETRIAL CONFINEMENT

SECTION 89C. EXECUTION OF PRETRIAL CONFINEMENT

If at the time of the act young persons have not reached 21 years of age, pretrial confinement will be executed in accordance with the provisions on the execution of pretrial confinement for young prisoners and if possible in facilities designated for young prisoners. If the person concerned is 21 years old but not yet 24 years old at the time the arrest warrant is executed, pretrial confinement may be executed in accordance with these provisions and in these facilities. The court shall make the decision. Representatives of the facility to which the juvenile is to be committed shall be heard prior to the decision.

CHAPTER TWO
SERVING THE SENTENCE

SECTION 90. YOUTH DETENTION

(1) The serving of youth detention shall stir the juvenile's sense of honor and shall impressively convince him that he must make restitution for the wrong he has committed. Serving of youth detention shall be organized according to educational aspects. It shall help the juvenile to overcome the difficulties that contributed to the commission of the offense.

(2) Youth detention will be served in detention facilities for juveniles or in free-time detention rooms provided by the *Land* judicial administrative authorities. The officer supervising the serving of the sentence is the youth court judge at the location where the sentence is served.

SECTION 91. (RESCINDED)

SECTION 92. LEGAL REMEDIES IN CONNECTION WITH THE EXECUTION OF YOUTH DETENTION, JUVENILE CONFINEMENT AND COMMITMENT TO A PSYCHIATRIC HOSPITAL OR AN INSTITUTION FOR THE TREATMENT OF ALCOHOLICS AND DRUG ADDICTS

(1) A motion may be filed for a court decision against a measure concerning the arrangement of individual matters in the field of youth detention, juvenile confinement and the measures of commitment to a psychiatric hospital or an institution for the treatment of alcoholics and drug addicts (sec 61, nos 1 and 2, of the German Criminal Code). Sections 109 and 111 to 120, paragraph (1), of the Prison Act (*Strafvollzugsgesetz*), as well as section 67, paragraphs (1) through (3) and (5) shall apply accordingly to the motion; legislation of the *Länder* may provide that the motion may only be filed after a procedure for friendly dispute settlement.

(2) The youth penal chamber in whose district the involved execution authority is located shall decide on the motion. Section 110, sentence 2, of the Prison Act shall apply accordingly. If one *Land* runs a facility for the execution of juvenile confinement on the territory of another *Land* the involved *Länder* may agree that jurisdiction lies with the youth penal chamber at that State Court in whose district the supervisory authority responsible for the facility is located.

(3) The youth penal chamber decides by order. It shall determine at its discretion whether a hearing will be held. Upon his request, the juvenile shall be personally heard before a decision is rendered. The juvenile shall be advised accordingly. If no court hearing is held, hearing of the juvenile shall be conducted in the confinement facility.

(4) For decisions on motions pursuant to paragraph 1 the youth penal chamber sits with one judge. This judge may only be a judge on probation if tasks in connection with judicial decisions in criminal proceedings have already been assigned to him for a period of one year. If the matter involves special legal problems or if it is a basic legal issue the judge shall submit the matter to the youth penal chamber to decide if it should take over. If one of the prerequisites for taking over is fulfilled the youth penal chamber shall take over the motion. It shall render its decision by order. A retransfer is excluded.

(5) Section 121 of the Prison Act shall apply to the costs of the proceedings subject to the proviso that in accordance with section 74 it may be refrained from imposing costs and expenses on the juvenile.

(6) Paragraphs (1) through (5) shall not be applied if, pursuant to section 89b, paragraph (2), a prison sentence for juveniles is executed in accordance with the provisions applicable to the execution of a sentence for adults, or if the juvenile has become 24 years old in the course of the execution of a measure of prevention and reform pursuant to section 61, number 1 or 2, of the German Criminal Code. The provisions of sections 109 through 121 of the Prison Act shall apply to the motion for a court decision.

SECTION 93. (RESCINDED)

SECTION 93A. COMMITMENT TO AN INSTITUTION FOR THE TREATMENT OF ALCOHOLICS OR DRUG ADDICTS

(1) The measure pursuant to section 61, number 2, of the German Criminal Code, will be executed at an institution that has available the special therapeutic means and social aids required for the treatment of addicted juveniles.

(2) In order to achieve the intended aim of the treatment, the serving of the sentence may be handled less strictly and as informally as possible.

FOURTH SUBPART
DELETION OF THE BLEMISH OF JUDICIAL PUNISHMENT

SECTIONS 94 THROUGH 96. (DELETED)

SECTION 97. DELETION OF THE BLEMISH OF JUDICIAL PUNISHMENT BY DECISION OF THE JUDGE

(1) If the youth court judge has come to the conclusion that a juvenile who has been sentenced to juvenile confinement has proven by irreproachable conduct that he is a righteous person, he declares *ex officio*, or on request of the convicted

person, of the parents or legal guardian, or of the legal representative, that the entry in the penal register concerning the blemish of judicial punishment (*Strafmakel*) be deleted. This may also be done on request of the prosecutor or, if the convicted person at the time of the request is still under age, on request of the officer rendering assistance to the youth court. The declaration is not permissible if a conviction pursuant to sections 174 through 180, or 182 of the German Criminal Code is concerned.

(2) The order may be issued not earlier than 2 years after the sentence has been served or remitted unless it has been found that the convicted person has shown that he is exceptionally deserving of the deletion of the blemish from the penal register. Issuance of the order is not permitted during the time the sentence is being served or during the period of probation.

SECTION 98. PROCEDURE

(1) The youth court judge of the district court who, in his function as the judge of the family court, is responsible for the education of the convicted person has jurisdiction. If the convicted person is of age, the youth court judge in whose area the convicted person resides has jurisdiction.

(2) The youth judge preferably assigns inquiries as to his conduct and whether or not he proves himself worthy to the agency that has taken care of the convicted person after he has served the sentence. He may also make inquiries on his own. He hears the convicted person and, if the individual is under age, he hears the parents or the legal guardian, the legal representative, the school, and the competent administrative authority.

(3) After completion of the inquiries, the prosecutor shall be heard.

SECTION 99. DECISION

(1) The youth court judge makes his decision by an order.

(2) If he feels that the prerequisites are such that deletion of the blemish of judicial punishment is not advisable at that time, he may delay the decision for not more than 2 years.

(3) Immediate recourse may be filed against the order.

SECTION 100. DELETION OF THE BLEMISH OF JUDICIAL PUNISHMENT AFTER REMISSION OF THE SENTENCE OR THE REMAINING PORTION OF THE SENTENCE

When the sentence or the remaining portion of the sentence in case of a sentence to juvenile confinement for not more than 2 years is remitted after having been suspended on probation, the judge will also declare the blemish of judicial punishment to be deleted. This does not apply if a conviction pursuant to sections 174 through 180, or section 182 of the German Criminal Code is concerned.

SECTION 101. REVOCATION

When a convicted person whose blemish of judicial punishment has been declared deleted is again convicted of a major crime or of an intentionally committed minor crime that results in imprisonment before the deletion of the entry from the register, the judge will, in the judgment or subsequently by order, revoke the deletion of the blemish of judicial punishment. In special cases he may abstain from such revocation.

FIFTH SUBPART
JUVENILES BEFORE COURTS HAVING GENERAL CRIMINAL JURISDICTION

SECTION 102. JURISDICTION

The jurisdiction of the Federal Supreme Court (*Bundesgerichtshof*) and the superior state court (*Oberlandesgericht*) are not affected by the provisions of this law. In criminal matters of first instance for which the superior state courts are competent (sec 120, paras (1) and (2), of the Law Concerning the Constitution of Courts), the Federal Supreme Court also rules on complaints against decisions of these superior state courts in which suspension of juvenile confinement on probation has been ordered or has been denied (sec 59, para (1)).

SECTION 103. COMBINING OF SEVERAL CRIMINAL PROCEEDINGS

(1) According to the provisions of the general rules of procedure, criminal actions against juveniles and adults may be combined when it is deemed advisable for the purpose of searching for the truth or for other important reasons.

(2) The youth court has jurisdiction. This does not apply when the criminal case against adults according to the provisions of the general law (incl. the regulation under sec 74e of the Law Concerning the Constitution of Courts) is within the competence of the court division for economic offenses or of the penal chamber pursuant to section 74a of the Law Concerning the Constitution of Courts; in such a case these penal chambers also have jurisdiction over the criminal case against the juvenile. For review of the jurisdiction of the court division for economic offenses and the penal chamber pursuant to section 74a of the Law Concerning n the Constitution of Courts, section 6a, section 225a, paragraph (4), and section 270, paragraph (1), second sentence, of the German Code of Criminal Procedure, apply accordingly in the case of the second sentence. Section 209a of the German Code of Criminal Procedure shall be applicable subject to the proviso that these penal chambers, also vis-à-vis the youth chamber, are equal to a court of higher instance.

(3) If the judge decides that the combined cases be separated, the separated matter is immediately transferred to the judge who would have had jurisdiction, had the proceedings not been combined.

SECTION 104. PROCEEDINGS AGAINST JUVENILES

(1) In proceedings against juveniles before courts exercising general criminal jurisdiction, the provisions of this law are applicable concerning—

1. Offenses committed by juveniles and the consequences thereof (secs 3 through 32),

2. Consultation and legal status of the officer rendering assistance to the youth court (secs 38 and 50, para (3)),

3. Scope of investigations during preliminary proceedings (sec 43),

4. Waiver of prosecution and discontinuance of proceedings by the judge (secs 45 and 47),

5. Pretrial confinement (secs 52, 52a, and 72),

6. Grounds for the judgment (sec 54),

7. Review proceedings (secs 55 and 56),

8. Procedure concerning suspension of juvenile confinement on probation and imposition of juvenile confinement (secs 57 through 64),

9. Participation and legal position of the parents or legal guardian and the legal representative (secs 67 and 50, para (2)),

10. Mandatory defense (sec 68),

11. Notification (sec 70),

12. Commitment to an institution for observation (sec 73),

13. Costs and expenses (sec 74),

14. Exclusion of provisions set forth in the general procedural law (secs 79 through 81), and

15. Procedure and decision in case of ordering preventive custody (sec 81a).

(2) The application of additional procedural provisions set forth in this law is at the discretion of the judge.

(3) If it is deemed advisable for reasons of state security, the judge may order that the officer rendering assistance to the youth court will not be consulted and that participation of the parents or legal guardian and the legal representative be omitted.

(4) If the judge deems it necessary that corrective measures be imposed, he shall leave the choice thereof and the order for their execution to the family court. Section 53, second sentence, applies accordingly.

(5) The judge in whose district the juvenile resides shall be assigned the following decisions: Decisions that become necessary after—

1. A suspension of juvenile confinement on probation;

2. Imposition of juvenile confinement has been suspended, with the exception of decisions on the determination of the sentence and the eradication of the verdict of guilt from the record (sec 30);

3. The reservation of a subsequent decision on the suspension of juvenile detention, with the exception of the reserved decision (sec 61a).

THIRD PART
ADOLESCENTS (*HERANWACHSENDE*)

CHAPTER ONE
APPLICATION OF THE SUBSTANTIVE CRIMINAL LAW

SECTION 105. APPLICATION OF THE JUVENILE CRIMINAL LAW TO ADOLESCENTS

(1) If an adolescent commits an offense that is subject to punishment pursuant to the provisions of the general law, the judge applies the provisions applicable to juveniles set forth in sections 4 through 8, section 9, number 1, section 10, section 11, and sections 13 through 32 if the—

1. Evaluation of the offender's personality taking into consideration his environment reveals that, at the time he committed the act, he was equal to a juvenile with regard to moral and mental development, or

2. Nature, the circumstances, or the motives of the act indicate that it was an offense characteristic of youth.

(2) Section 31, paragraph (2), first sentence, and paragraph (3), is also applicable if the adolescent has already been sentenced for part of the offenses by final judgment pursuant to general criminal law.

(3) The maximum period of juvenile confinement for adolescents shall not exceed 10 years. If the act is murder and the maximum punishment pursuant to sentence 1 is insufficient because of the seriousness of the guilt, the maximum sentence will be 15 years.

SECTION 106. MODERATION OF GENERAL CRIMINAL LAW FOR ADOLESCENTS; PREVENTIVE CUSTODY

(1) If the offense committed by an adolescent is of such a nature that general criminal law is applicable, the court may impose imprisonment from 10 to 15 years in place of imprisonment for life.

(2) The court may order that the loss of eligibility to hold public office and to acquire rights resulting from public elections (sec 45, para (1), of the German Criminal Code) does not occur.

(3) Preventive custody may not be ordered in addition to the punishment. The court may reserve ordering of preventive custody under the other prerequisites of section 66 of the German Criminal Code if the—

1. Adolescent is convicted to a prison sentence of at least 5 years for a criminal act of the type described in section 66, paragraph (3), sentence 1, of the German Criminal Code, thereby causing the victim to suffer severe mental or physical harm or exposing the victim to the danger of suffering such harm,

2. Previous acts decisive according to the general rules are also offenses of the type designated in number 1, and

3. Overall assessment of the offender and his offenses shows that, as a consequence of his disposition to commit such acts, he is a danger for the general public.

Section 66a, paragraph (3), of the German Criminal Code applies accordingly.

(4) If, in addition to the sentence, ordering of preventive custody is reserved and if the convicted person has not completed twenty seven years of age, the court shall order the sentence to be executed in a sociotherapeutic institution

already, unless the rehabilitation of the perpetrator cannot be improved by such measure. Such an order may also be issued subsequently. As long as execution of the sentence in a sociotherapeutic institution has not been ordered or the prisoner has not yet been transferred to a sociotherapeutic institution, a new decision concerning the issue shall be rendered every six months. The court responsible for the execution of the prison sentence shall be competent to issue a subsequent order pursuant to sentence 2.

(5) If, after a conviction for a criminal offense of the type designated in paragraph (3), sentence 2, number 1, to a prison sentence of at least 5 years, facts become known, prior to completion of this sentence, indicating that the perpetrator is a serious danger for the general public, the court may order preventive custody subsequently if the overall assessment of the convicted person, his offenses and in addition his development during the time of imprisonment show that he will very likely commit more criminal acts of the type designated in paragraph (3), sentence 2, number 1. If none of the offenses of this type that were the basis of the conviction was committed after 1 April 2004 and therefore preventive custody pursuant to paragraph (3), sentence 2, could not be reserved, the court shall also consider as facts within the meaning of sentence 1 such that were already recognizable at the time of the conviction.

(6) If commitment to a psychiatric hospital, which was ordered for an offense of the type designated in paragraph (3), sentence 2, number 1, has been declared completed pursuant to section 67d, paragraph (6), of the German Criminal Code, because the condition excluding or diminishing criminal responsibility which was the basis for the commitment did not exist at the time the decision on completion was made, the court may subsequently order commitment to preventive custody if—

1. Commitment of the person concerned pursuant to section 63 of the German Criminal Code was ordered for several offenses of such type, or if the person concerned had already been convicted to imprisonment of at least 3 years or had been committed to a psychiatric hospital because he committed one or several such offenses prior to the offense resulting in a commitment pursuant to section 63 of the German Criminal Code, and

2. The overall assessment of the person concerned, his offenses, and his development by the time the decision is made show that he will most likely again commit serious criminal acts of the type designated in paragraph (3), sentence 2, number 1.

(7) (Rescinded).

CHAPTER TWO
CONSTITUTION OF COURTS AND PROCEDURE

SECTION 107. CONSTITUTION OF COURTS

Of the provisions concerning the constitution of the youth courts, sections 33 through 34, paragraph (1), and sections 35 through 38 apply accordingly to adolescents.

SECTION 108. JURISDICTION

(1) The provisions concerning jurisdiction of youth courts (secs 39 through 42) are also applicable to offenses committed by adolescents.

(2) The judge of the youth court has jurisdiction over offenses committed by adolescents even if it is expected that the case will be tried under the general criminal law and if, according to section 25 of the Law Concerning the Constitution of Courts, the criminal court judge would have jurisdiction.

(3) If, in case of an illegal act committed by an adolescent person, general criminal law applies, section 24, paragraph (2), of the Law Concenring the Constitution of Courts is applicable. The youth court shall be competent if, in a specific case, a prison sentence of more than 4 years, commitment of the accused to a psychiatric hospital—solely or in addition to the punishment—or preventive custody (sec 106, paras (3), (5), and (6)) must be expected. The decision to have a reduced number of judges for the trial (sec 33b) is not permissible if it is to be expected that the court will order preventive custody, reserve ordering it, or order commitment to a psychiatric hospital.

SECTION 109. PROCEDURE

(1) Of the provisions concerning youth criminal proceedings (secs 43 through 81a), sections 43; 47a; 50, paragraphs (3) and 4; section 68, numbers 1 and 4; section 70a, paragraph (1), sentence 3, and paragraph (2); as well as sections 72a through 73 and section 81a apply accordingly in proceedings against adolescents. The assistance to the youth court and, in appropriate cases, also the school will be notified of initiation and outcome of the proceedings. They will inform the public prosecutor if

it becomes known to them that other criminal proceedings are pending against the accused. The public may be excluded when this is advisable in the interest of the adolescent.

(2) If the judge applies juvenile criminal law (sec 105), section 45; section 47; paragraph (1), sentence 1, numbers 1, 2, and 3, paragraphs 2 and 3; section 52; section 52a; section 54, paragraph (1); sections 55 through 66; section 74; and section 79, paragraph (1), apply accordingly. Section 74 shall not be applied within the scope of a decision on the expenses of the injured party pursuant to section 472a of the German Code of Criminal Procedure. Section 66 is also applicable if no unitary determination of measures or juvenile confinement pursuant to section 105, paragraph (2), has been made. Section 55, paragraphs (1) and (2) shall not be applied if the decision was issued in expedited proceedings pursuant to the general procedural law.

(3) In proceedings against an adolescent, section 407, paragraph (2), sentence 2, of the German Code of Criminal Procedure shall not be applied.

CHAPTER THREE
EXECUTION OF THE SENTENCE, SERVING THE SENTENCE, AND DELETION OF THE BLEMISH OF JUDICIAL PUNISHMENT

SECTION 110. EXECUTION OF THE SENTENCE AND SERVING THE SENTENCE

(1) Section 82, paragraph (1), and sections 83 through 93a of the provisions concerning execution and serving of the sentence (in cases involving juveniles) apply accordingly to adolescents when the judge applies juvenile criminal law (sec 105) and has imposed permissible measures or juvenile confinement as provided by this law.

(2) Section 89c shall apply accordingly to the execution of pretrial confinement in case of an adolescent offender.

SECTION 111. DELETION OF THE BLEMISH OF JUDICIAL PUNISHMENT
The provisions concerning the deletion of the blemish of judicial punishment (secs 97 through 101) apply accordingly to adolescents if the judge has imposed juvenile confinement.

CHAPTER FOUR
ADOLESCENTS BEFORE COURTS HAVING GENERAL CRIMINAL JURISDICTION

SECTION 112. APPLICATION
Sections 102, 103, and 104, paragraphs (1) through (3), and (5), apply accordingly to the proceedings against adolescents. The provisions of section 104, paragraph (1), shall be applied only insofar as they are not excluded by the law applicable to adolescents. If the judge considers the issuance of directives to be necessary, he leaves the selection and ordering to the judge of the youth court in whose area the adolescent resides.

FOURTH PART
SPECIAL PROVISIONS FOR MILITARY PERSONNEL IN THE FEDERAL ARMED FORCES

SECTION 112A. APPLICATION OF THE JUVENILE CRIMINAL LAW
During the military service of a juvenile or an adolescent, the juvenile criminal law (secs 3 through 32 and 105) applies with the following differences:

1. Correctional guidance measures as defined in section 12 may not be ordered.

2. (Rescinded).

3. In issuing directives and imposing terms and conditions, the judge shall consider the special requirements of the military service. Directives and terms and conditions that have been previously imposed shall be adjusted to these requirements.

4. A soldier may be appointed probation officer as an honorary duty. He is not subject to the directives issued by the judge while exercising his duties (sec 25, sent 2).

5. Matters that fall within the scope of the military superiors of the juvenile or adolescent are excluded from the supervision of a probation officer who is not a soldier. Measures of the disciplinary superior have priority.

SECTION 112B. (RESCINDED)

SECTION 112C. EXECUTION OF THE SENTENCE

(1) The officer in charge of the execution of the sentence shall refrain from ordering into execution youth detention imposed on soldiers of the Federal Armed Forces for an offense committed before commencement of their military service, when this is required by the special needs of the military service that cannot be met by postponement of execution of the sentence.

(2) The decision of the officer in charge of the execution of the sentence pursuant to paragraph (1) is a decision by a youth court judge within the meaning of section 83.

SECTION 112D. CONSULTATION WITH THE SUPERIOR HAVING DISCIPLINARY POWER

Before issuing directives to a soldier of the Federal Armed Forces or imposing terms and conditions on him , refraining from execution of youth detention pursuant to section 112c, paragraph (1), or appointing a soldier as probation officer, the judge or the officer in charge of the execution of the sentence shall consult with the immediate superior having disciplinary power over the juvenile or the adolescent regarding these matters.

SECTION 112E. PROCEEDINGS BEFORE COURTS HAVING GENERAL CRIMINAL JURISDICTION

In proceedings against juveniles or adolescents before courts having general criminal jurisdiction (sec 104), sections 112a and 112d are applicable.

FIFTH PART
CONCLUDING AND TRANSITIONAL PROVISIONS

SECTION 113. PROBATION OFFICER

At least one full-time probation officer shall be employed in the area of each youth court judge. The services of such an officer may be extended to several areas or may also be waived if, due to infrequency of criminal cases, the costs would run disproportionately high. Details concerning the activity of the probation officer shall be regulated by *Land* laws.

SECTION 114. SERVING OF THE SENTENCE TO IMPRISONMENT AT FACILITIES FOR THE EXECUTION OF JUVENILE CONFINEMENT

Convicted persons who have not completed their 24th year of age and who are suitable for juvenile confinement may serve sentences to imprisonment that are imposed pursuant to general criminal law in a facility for the execution of juvenile confinement.

SECTION 115. (RESCINDED)

SECTION 116. SCOPE OF APPLICABILITY AS TO THE TIME OF COMMISSION OF THE OFFENSE

The law is also applicable to offenses that have been committed before the date the law became effective.

SECTION 117 to SECTION 120 (RESCINDED)

SECTION 121. TRANSITIONAL PROVISION

(1) The provisions of the Third Part of the Law Introducing the Law Concerning the Constitution of Courts in their previous version shall continue to apply for proceedings already pending on 1 January 2008 concerning a court decision on the legality of measures during the execution of juvenile confinement, youth detention and of commitment to a psychiatric hospital or an institution for the treatment of alcoholics and drug addicts.

(2) Section 33b, paragraph (2), in the version effective until 31 December 2011, shall be applied to proceedings that were already pending before the youth court penal chamber before 1 January 2012.

(3) Section 74f of the Law Concerning the Constitution of Courts in the version effective until 31 December 2011 shall apply accordingly if, in case of proceedings where a decision is to be made on the preventive custody reserved in the judgment or on the subsequent ordering of preventive custody, the public prosecutor's office has handed the files to the presiding judge of the competent court before 1 January 2012.

SECTION 122 to SECTION 124 (RESCINDED)

SECTION 125. EFFECTIVE DATE

This law shall enter into force on 1 October 1953.

ENDNOTES

1. General Law equals the ordinary criminal law (for example, the German Criminal Code, appendix A of this pamphlet) that is normally applicable. (Lat. *lex generalis*, as opposed to *lex specialis*.)

2. Throughout this law, the concept of *Erziehung* is the guiding thread of all actions on behalf of a juvenile accused. *Erziehung* can be defined as education, correction, development, upbringing, or any similar term pertaining to the development or improvement of the juvenile's mental, moral, physical, or psychological welfare. For the sake of consistency, the term *Erziehung* (or its verb form *erziehen*) will be translated throughout the text as "education" (or "to educate") unless another definition is clearly warranted.

3. The term *Entziehungsanstalt* (literally, withdrawal institution) is translated in this and other sections of the law as "institution for the treatment of alcoholics or drug addicts" to better indicate its purpose.

4. The term *Erziehungsberechtigte* (the person having the right to control and bring up the child) is translated in this and later sections as "parents or legal guardian."

5. See the basic pamphlet, paragraph 5, for discussion of the German court system.

6. In this subpart, it is necessary to distinguish between two terms: *Vollstreckungsleiter* and *Vollzugsleiter*. The officer in charge of the execution of the sentence (*Vollstreckungsleiter*) is the youth court judge who presided over the trial of the juvenile (sec 84, para (1)). The officer charged with supervising the serving of the sentence (*Vollzugsleiter*) is the youth court judge at the location where the sentence is served (sec 90, para (2)).

7. See endnote number 3.