

## Notice of rights and entitlements – Warrantless arrest of a juvenile

(Warrantless arrest pursuant to ss 127, 127b of the Civil Procedure Rules (*StPO*) read with s 114b of *StPO*, s 2(2), s 70a(6), s 109 of the Juvenile Justice Act (*JGG*))

### **You have been arrested. These are your rights:**

1. You have the right to be told what offence you are suspected of and the grounds for your arrest.
2. You must be brought before a magistrate without undue delay, but in no event later than on the day after your arrest. The magistrate must question you and decide whether you will be kept in custody, that is, if you have not already been released by then.
3. The law allows you to decide for yourself whether to make a statement about the case and the accusation. You are, however obliged to truthfully answer questions about your name, address and date of birth. Failure to give, when requested, your personal details may result in a fine under section 111 of the Administrative Offences Act (*OWiG*).
4. You have the right to present witnesses or other evidence and to apply for evidence to be taken in your defence or to clear up the case
5. You may consult a defence lawyer of your choice at any time at your own cost, even before you are questioned. If you wish, you will be given information that makes it easier to get in touch with a lawyer or the duty solicitor (*Verteidigernotdienst*). This is irrespective of whether you wish to hire your own lawyer or use the services of an assigned counsel (*Pflichtverteidiger*).
6. In some cases a defence lawyer is mandatory, for example if you are suspected of a serious offence, if you are brought before a magistrate who decides on remand or if you are more than likely to be convicted and receive a juvenile sentence.

If, in such a case, you (or your parents/legal guardians if you are under 18) do not consult a defence lawyer at own cost, the Court – or, if there is urgency, the Public Prosecution Service – must provide an assigned counsel, typically ahead of the start of questioning or a police line-up ('identity parade'), without you having to make a request. Irrespective of that, you may at any time ask police or prosecutors to provide an assigned counsel. If you make such an application, it has to be decided upon before the official interview or the line-up. If deemed necessary, an assigned counsel must be provided without delay. The cost will initially be picked up by the taxpayer. If convicted, you might be asked to repay the money.

In 'mandatory-defence' cases, an interview or line-up must be deferred or halted if no defence counsel is present. At the same time, your defence counsel is free to decide not to attend the interview altogether.

7. If you are temporarily detained, you have the right to be examined by a medical practitioner. You can request to be examined by a doctor of your choice. You might then be asked to pick up the costs. During your detention, you have the right to any necessary medical care. Your right to a medical

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In this document the masculine form should be taken to refer to all genders.

The use of the term parent/guardian should be taken to include anyone who has custody of the minor.

examination may also be invoked by your lawyer or any other adult person charged with looking after your interests.

8. You may notify a friend or family member of your arrest, as long as this does not significantly harm the investigation
9. Your lawyer can apply to see the case file. If you do not have a lawyer, you can get access to the file yourself, provided this does not harm this or other investigations, and as long as third-party interests are not jeopardised.
10. The length of detention must be reasonable and needs to take into account your age and development stage as well as any particular vulnerability. Detention can only be applied if less severe alternatives are not available, such as confinement to a specified location, secure accommodation or, for example, having to report to the local police station on a regular basis
11. If you are under 18, you cannot be locked up with people aged 18 or over if this would pose a risk to your well-being. You may be locked up with people aged 24 or over only if this would specifically be in your best interest. Those rules apply to police custody, remand and secure accommodation
12. During any detention, custody staff must ensure that your physical and mental health and wellbeing as well as your freedom to practise your religion and express your beliefs is protected. You must be provided with options to further your education, development and reintegration, as long as this is reasonable, especially in view of the length of your detention. You also have a right to family life and to visits from your parents/guardians, provided there are no legal obstacles which might preclude this
13. If the court decides to remand you in custody or impose secure accommodation, you are entitled to appeal and seek judicial review and/or request a custody hearing. If the court imposes restrictions or other conditions (e.g. monitoring of visits or correspondence) you are free to appeal or, in some cases, ask the court for review. Equally, you may seek judicial review of any restrictions imposed on you by the detention facility. If you are held in pre-trial custody for more than six months, the supreme court (*Oberlandesgericht*) will automatically review your case. This review will then be repeated every three months.

**If your German is not good enough or if you have a hearing or speech impairment**, you may request the assistance of someone who interprets or translates for you throughout the proceedings. You may also opt for either spoken or written form of communication. If you do not have a defence lawyer (including if, for example, defence counsel is deemed unnecessary at a later stage), you will typically be provided with written translations of detention orders, charge sheets, summary judgments or verdicts. This will come at no cost to you.

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