

the request of his superior. If the offence is directed against a public authority or other agency that performs duties of public administration it may be prosecuted upon the request of the head of the public authority or the head of the supervisory authority. This applies mutatis mutandis to public officials and public authorities of churches and other religious associations under public law.

(4) If the offence is directed against a legislative body of the Federation or a state or another political body within the Federal Republic of Germany it may be prosecuted only upon the authorisation of that body.

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### **Sections 195 to 198 (repealed)**

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### **Section 199 Mutual insults**

If an insult is immediately reciprocated the court may order a discharge for one or both of the offenders.

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### **Section 200 Publication of the conviction**

(1) If the insult was committed publicly or through dissemination of written materials (section 11(3)) and if a penalty is imposed the court shall, upon application of the victim or a person otherwise entitled to file a request, order that the conviction be publicly announced upon request.

(2) The manner of publication shall be indicated in the judgment. If the insult was committed through publication in a newspaper or magazine the publication shall also be included in a newspaper or magazine, if possible in the same one which contained the insult; this shall apply mutatis mutandis if the insult was committed through publication by broadcast.

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## **CHAPTER FIFTEEN VIOLATION OF PRIVACY**

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### **Section 201 Violation of the privacy of the spoken word**

(1) Whosoever unlawfully

1. makes an audio recording of the privately spoken words of another; or
2. uses, or makes a recording thus produced accessible to a third party,

shall be liable to imprisonment not exceeding three years or a fine.

(2) Whosoever unlawfully

1. overhears with an eavesdropping device the privately spoken words of another not intended for his attention; or
2. publicly communicates, verbatim or the essential content of, the privately spoken words of another recorded pursuant to subsection (1) No 1 above or overheard pursuant to subsection (2) No 1 above. shall incur the same penalty. The offence under the 1st sentence No 2 above, shall only entail liability if the public communication may interfere with the legitimate interests of another. It is not unlawful if the public communication was made for the purpose of safeguarding overriding public interests.

(3) Whosoever, as a public official or a person entrusted with special public service functions violates the privacy of the spoken word (subsections (1) and (2) above) shall be liable to imprisonment not exceeding five years or a

fine.

(4) The attempt shall be punishable.

(5) The audio recording media and eavesdropping devices which the principal or secondary participant used may be subject to a deprivation order. Section 74a shall apply.

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### **Section 201a** **Violation of intimate privacy by taking photographs**

(1) Whosoever unlawfully creates or transmits pictures of another person located in a dwelling or a room especially protected from view and thereby violates their intimate privacy shall be liable to imprisonment not exceeding one year or a fine.

(2) Whosoever uses or makes available to a third party a picture created by an offence under subsection (1) above shall incur the same penalty.

(3) Whosoever unlawfully and knowingly makes available to third parties a picture that was created with the consent of another person located in a dwelling or a room especially protected from view and thereby violates his intimate privacy shall be liable to imprisonment not exceeding one year or a fine.

(4) The visual media and the visual recording devices or other technical means that the principal or secondary or participant used may be subject to a deprivation order. Section 74a shall apply.

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### **Section 202** **Violation of the privacy of the written word**

(1) Whosoever unlawfully

1. opens a sealed letter or another sealed document not intended for him;

or

2. obtains knowledge of the content of such a document without opening the seal by using technical means,

shall be liable to imprisonment not exceeding one year or a fine unless the act is punishable under section 206.

(2) Whosoever unlawfully obtains knowledge of the contents of a document not intended for him and which was specially protected by means of a sealed container after he has opened the container shall incur the same penalty.

(3) An illustration shall be equivalent to a document within the meaning of subsections (1) and (2) above.

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### **Section 202a** **Data espionage**

(1) Whosoever unlawfully obtains data for himself or another that were not intended for him and were especially protected against unauthorised access, if he has circumvented the protection, shall be liable to imprisonment not exceeding three years or a fine.

(2) Within the meaning of subsection (1) above data shall only be those stored or transmitted electronically or magnetically or otherwise in a manner not immediately perceivable.

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### **Section 202b** **Phishing**

Whosoever unlawfully intercepts data (section 202a(2)) not intended for him, for himself or another by technical