

**Criminal Procedure (Enforcement Powers – Detention) Law, 5756 – 1996<sup>1</sup>**  
**Chapter One: General Provisions**

**Detention and scope of application**

1. (a) No detention or delaying shall be made except by statute or pursuant to statute in accordance with the authority set forth expressly therein.  
(b) The detention and delaying of a person shall be made in a way that ensures maximum protection of the person's human dignity and rights.  
(c) The provisions of this law shall apply to detention and delaying made pursuant to any law, unless set forth otherwise in law.
2. The subject-matter jurisdiction to hear a matter under this law applies –
  - (1) so long as an indictment has not been filed – in the Magistrate's Court;

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**Procedure**

15. (a) An application for [an order authorizing] detention shall be submitted in writing by a police officer, and shall be supported by his declaration following a warning [that he tell the truth], or by affidavit;

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(c) The material relating to the application for detention or information on which the application for detention warrant is based, and all the material provided in the procedure pursuant to subsection (e), shall be made available only to the judge for review; the material will be marked and returned to the police officer after the judge has completed his study of it.

(d) The judge may question the police officer upon his request; where the hearing is held in the presence of the suspect, the suspect or his attorney may question the police officer.

(e) Where the police officer requested that his answer to a question be made known to the court only, or requested to set forth before the court only facts or information on which the application for detention is based, he shall provide to the court, in writing, the answer and the reasons for his request; the court may grant the request and rely on the material submitted to it in this manner if it finds that the giving of the response, or the disclosure of the facts or information, in the presence of the suspect and his attorney are liable to obstruct the investigation or impair another important public interest; the classified information shall be marked, returned to the police officer following its study, and the matter shall be recorded in the protocol. Where the judge decided not to grant the request regarding the non-disclosure of the material, the police officer may give notice that he retracts submission of the material to which the question relates, and in such event, the material shall not be made available to the suspect and his attorney for study, and the judge shall disregard it in reaching his decisions.

(f) For purposes of decisions on an application for an arrest warrant, the judge may consider evidence that is inadmissible in court.

(g) A protocol of the hearing shall be made, without revealing the content of the classified material, and the protocol shall be provided to the sides.

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<sup>1</sup> *Sefer Hachukkim* 5764 [2004], No. 1913... (Proposed Law 5763 No. 27); *Sefer Hachukkim* 5765 [2005] No. 1973... (Government Proposed Law 5763 No. 43)...

(h) A hearing on an application for an arrest warrant that is conducted in the absence of the suspect shall be held behind closed doors, unless the judge orders otherwise for special reasons that it be recorded.

#### **Extension of detention**

16. Where application is made to extend the detention of a suspect or defendant, the following provisions shall apply:
- (1) The Police shall give prompt notification of the time and place of the hearing to the suspect, his attorney, if he has an attorney, and where he does not have an attorney – to a member of the suspect's family named by the suspect.
  - (2) The hearing shall be held in the presence of the suspect, unless the judge is convinced that, based on the opinion of a physician, the suspect is incapable of taking part in the hearing for health reasons; in such a case, the hearing shall be held in the presence of his attorney, and if he is not represented by counsel, then the judge shall appoint an attorney for him, until he is able to appear in court; where the reason for his inability to appear no longer exists, and the period of detention has not ended, the suspect may demand a rehearing;
  - (3) The hearing shall be conducted in open court, however the judge may order that the hearing be held *in camera* in accordance with the provisions of section 68(b) of the Courts Law [Consolidated Version], 5743 – 1984.

#### **Detention prior to filing of indictment**

17. (a) Where a judge ordered the detention of a suspect in his presence, the detention shall not exceed 15 days; however, the judge may extend the detention, from time to time, for a period that shall not exceed 15 days; the provisions of this subsection shall not prejudice the provisions set forth at the end of section 13(a)(3).
- (b) A suspect shall not be detained for one consecutive period relating to the same incident, including detention made without an order, for a period exceeding 30 days, unless an additional application for arrest is filed with the approval of the Attorney General.
- (c) Where the judge ordered that a suspect be detained in a hearing at which he was not present in court, including detention pursuant to section 14, and the suspect was not previously released pursuant to section 20, the suspect shall be brought before a judge as soon as possible and no later than 24 hours from the time of arrest; where the detainee is brought before a judge, the provisions of subsection (a) shall apply.
- (d) Where a person has been detained and his interrogation completed, he shall be released from detention; however, if the prosecution declares that it is about to file an indictment against him and the court is convinced that there is *prima facie* basis to request his detention until the end of the [post-indictment] proceedings, the court may extend the detention for this reason, for a period that shall not exceed five days, subject to the provisions of subsection (b)

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#### **Bringing the detainee before a judge**

29. (a) A person who is detained by the officer-in-charge pursuant to section 27 shall be brought before a judge as soon as possible, and no later than 24 hours.

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### **Investigation actions**

30. Notwithstanding the provisions of section 29, if the officer-in-charge considers it necessary to carry out an urgent investigation that cannot be done unless the suspect is in detention, and cannot be postponed until after the detainee is brought before a judge, or urgent action is needed regarding the investigation of an offense as stated in section 35(b), he may delay bringing the detainee before a judge, for the purpose of carrying out that investigative action, for a period that does not exceed 48 hours from the time that the detention began.

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### **Right of detainee to meet with an attorney**

34. (a) A detainee is entitled to meet and consult with an attorney.  
(b) Where a detainee requests a meeting with an attorney or an attorney retained for him by a family member requests a meeting with him, the official in charge of the investigation shall permit it without delay.

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### **Meeting with an attorney in security offenses**

35. (a) Where a detainee, suspected of security offenses, requests a meeting with an attorney, or an attorney retained by a member of the detainee's family requests a meeting with the detainee as aforesaid – the official in charge shall permit the meeting as soon as possible, unless one of the following exists:
- (1) the meeting is liable to impede the arrest of other suspects;
  - (2) the meeting is liable to impede the uncovering or seizure of evidence, or disrupt the investigation in another way;
  - (3) prevention of the meeting is necessary to thwart an offense or to protect human life;
- The aforesaid in this subsection shall not prevent delay of a meeting pursuant to section 34(d) and the power of the officer-in-charge, which is set forth in the said section, shall be given to the official in charge pursuant to this section.
- (b) In this law, "suspected of committing a security offense" means the person is suspected of committing any of the following offenses:
- (1) Part 2 or Part 4 of Chapter Seven of the Penal Law, 5737 – 1977, and sections 143, 144, 146, and 147 of the said law;
  - (2) Sections 58, 59, 62, 64, 66, 67, 84, and 85 of the Emergency Defense Regulations of 1945;
  - (3) Sections 2 or 3 of the Prevention of Terrorism Ordinance, 5708 – 1948;
  - (4) The Prevention of Infiltration (Offenses and Jurisdiction) Law, 5714 – 1954;
  - (5) Section 8 of the Prohibition of Financing Terrorism Law, 5765 – 2005; or a person who is detained pursuant to the Extension of Validity of the Emergency Regulations (Judea and Samaria and the Gaza Strip – Adjudication of Offenses and Legal Assistance) Law, 5728 – 1967, and is suspected of committing an offense which, if committed in Israel, would be among the offenses enumerated in subsections (1) to (5).

(c) The meeting of the detainee with an attorney pursuant to subsection (a) shall not be delayed for more than 10 days and the reasons for the delay shall be recorded; notification of the delay in holding the meeting shall be provided to the detainee, and at his request, notification of the delay and of the period of the delay shall be provided to a member of the suspect's family named by the suspect.

(d) The president of the District Court may order that a detainee not be permitted to meet with an attorney, or may extend the period as set forth in subsection (c) if such an application is made, with the approval of the Attorney General, and if one of the grounds set forth in subsection (a) exist; provided that the total period in which the meeting with the attorney is prevented does not exceed 21 days; a request pursuant to this subsection will only be heard *ex parte*, and on behalf of the applicant a police officer holding the rank of superintendent or above shall appear; the parties may appeal the decision made pursuant to this subsection to the Supreme Court; the appeal to be heard by one justice.

(e) Where a meeting between a suspect and an attorney is delayed pursuant to subsection (a), the suspect may appeal the decision to the president of the District Court, and in his absence, to the vice-president of the District Court; the District Court's decision may be appealed to the Supreme Court, the appeal to be heard by one justice.

(f) The hearing of an appeal pursuant to subsection (e) shall be held in the absence of the detainee unless the court ordered that the hearing be held in his presence.

(g) The hearing of an appeal or request for detention or release of the detainee, whose meeting with an attorney was delayed pursuant to this section, shall be held with the detainee and his attorney separately, in a way that will prevent contact between them, unless the judge decides otherwise, for reasons that shall be recorded, whereby the hearing in the presence of the detainee and this attorney together will not thwart the purpose for delaying the meeting.

(h) The proceedings pursuant to subsections (f) and (g) shall be carried out in accordance with the regulations that the Minister of Justice shall enact with the approval of the Knesset's Constitution, Law and Justice Committee.

(i) In a hearing pursuant to subsections (f) and (g), the court may admit evidence, including evidence regarding the reasons that were recorded for preventing the meeting, also where the suspect or his attorney are not present or without revealing the evidence to them, if he is convinced that disclosure of the evidence to the suspect or his attorney is liable to prejudice state security or impede the investigation; this provision does not derogate from any right not to provide evidence pursuant to Chapter Three of the Evidence Ordinance [New Version], 5731 – 1971.

(j) Where the court decided to permit the meeting between an attorney and a detainee, pursuant to this section, and the state's representative stated at the time of the giving of the decision that the decision would be appealed, the court may order a delay in the holding of the meeting for a period that shall not exceed 48 hours. In this matter, the Sabbath and holidays shall not be taken into account.

(k) Where a detainee requested as stated in subsection (a) to retain an attorney for himself and is not permitted to do so, he may petition the District Court,

and the hearing on his petition shall be held in his presence within 48 hours from the time of the filing of the petition.

(l) The Minister of Justice, upon consultation with the Minister of Defense and with the approval of the Knesset's Constitution, Law and Justice Committee, may enact regulations for the implementation of this section, including determination of the person in charge of matters relating to this section.

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#### **Reconsideration of the court's decision**

52. (a) A detainee who is released on bail[or other surety] or the prosecutor may make application to the court for a reconsideration in a matter relating to the detention, release, or breach of the terms of release on bail, including a decision pursuant to this section, if new facts exist, or where there has been a change in circumstances, or a substantial period of time has passed since the decision was given.

(b) A person who is held in detention for failure to provide bail may file an application for reconsideration at any time.

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#### **Appeal of the court's decision**

53. (a) A detainee, a person who is released on bail or the prosecutor may appeal the decision of the court in a matter relating to the detention, release, or breach of the terms of release on bail, or a decision on an application for reconsideration, and a guarantor may appeal a matter related to his surety, before an appeals court, the appeal being heard before one judge; where the decision is that of the District Court sitting as an appellate court, they may appeal the decision to the Supreme Court, the appeal to be heard by one justice.

(b) The judge hearing the appeal may rely on new evidence that has been gathered since the hearing in the lower court.

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#### **Release upon failure to file an indictment**

59. A suspect held in detention against whom an indictment has not been filed within 75 days from the time he was first detained, shall be released from detention, on bail or without bail.

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#### **Extension of detention or resumption of detention**

62. Notwithstanding the provisions of sections 59 to 61, a justice of the Supreme Court may order the extension of the detention or a resumption of detention, for a period that shall not exceed 90 days, and to renew such an order from time to time, and to order the release of the defendant, on bail or without bail.