

## CHAPTER 93-A

### OBSCENITY

#### §2911. Dissemination of obscene matter to minors

**1. Definitions.** As used in this section, unless the context indicates otherwise, the following words shall have the following meanings.

A. "Distribute" means to transfer possession, whether with or without consideration. [PL 1977, c. 410, §2 (NEW).]

B. "Exhibit" means to display for viewing by the public. [PL 1977, c. 410, §2 (NEW).]

C. "Matter" means any printed or written material, any picture, photograph, motion picture or other visual representation. [PL 1983, c. 300, §2 (AMD).]

C-1. "Minor" means a person under 18 years of age. [PL 1983, c. 300, §3 (NEW).]

D. "Obscene matter" means matter which:

(1) To the average individual, applying contemporary community standards, with respect to what is suitable material for minors, considered as a whole, appeals to the prurient interest;

(2) Depicts or describes, in a patently offensive manner, ultimate sexual acts, excretory functions, masturbation or lewd exhibition of the genitals; and

(3) Considered as a whole, lacks serious literary, artistic, political or scientific value. [PL 1977, c. 696, §168 (AMD).]

[PL 1983, c. 300, §§2, 3 (AMD).]

**2. General rule.** A person is guilty of disseminating obscene matter to a minor if he knowingly distributes, or exhibits or offers to distribute or exhibit to a minor, any obscene matter declared obscene, in an action to which he was a party, pursuant to subsection 3.

A. This section shall not apply to any noncommercial distribution or exhibition for purely educational purposes by any library, art gallery, museum, public school, private school or institution of learning, nor to any commercial distribution or exhibition by any art gallery or museum. [PL 1977, c. 410, §2 (NEW).]

B. It shall be a valid defense to any proceeding under this section that:

(1) The defendant was a parent or guardian of the minor;

(2) The distribution or exhibition is exempt under paragraph A; or

(3) For motion pictures, the minor was accompanied by his spouse, parent or legal guardian. [PL 1983, c. 300, §4 (AMD).]

[PL 1983, c. 300, §4 (AMD).]

**3. Procedure for adjudicating obscenity.** Whenever the Attorney General, or any district attorney, reasonably believes a person is disseminating to minors matter that is obscene, the Attorney General or district attorney may petition the Superior Court to declare the matter obscene pursuant to Title 14, sections 5951 to 5963. The Attorney General or district attorney may join all persons the Attorney General or district attorney reasonably believes to be disseminating that matter to minors as parties to the action. The hearing on such petition may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require.

A. Trial on the issue of obscenity must be by jury. [PL 2011, c. 559, Pt. A, §18 (AMD).]

B. Intervention by others disseminating the same matter must be freely allowed. [PL 2011, c. 559, Pt. A, §18 (AMD).]

C. Determination by a court pursuant to this subsection that a matter is obscene does not bar relitigation of that issue in a criminal prosecution under this section. [PL 2011, c. 559, Pt. A, §18 (AMD).]

[PL 2011, c. 559, Pt. A, §18 (AMD).]

**4. Penalty.** Disseminating obscene matter to a minor is a Class C crime. [PL 1983, c. 300, §5 (AMD).]

#### SECTION HISTORY

PL 1977, c. 410, §2 (NEW). PL 1977, c. 696, §168 (AMD). PL 1983, c. 300, §§2-5 (AMD). PL 2011, c. 559, Pt. A, §18 (AMD).

### §2912. Magazines containing obscene material on their covers not to be displayed to minors

**1. Prohibition.** No book, magazine or newspaper containing obscene material on its cover and offered for sale may be displayed in a location accessible to minors unless the cover of that book, magazine or newspaper is covered with an opaque material sufficient to prevent the obscene material from being visible.

[RR 2009, c. 2, §37 (COR).]

**2. Definitions.** For purposes of this section, the following terms shall have the following meanings.

A. "Minor" means any person who has not attained his 18th birthday. [PL 1979, c. 127, §123 (NEW).]

B. "Obscene material" means material which:

(1) To the average individual applying contemporary community standards with respect to what is suitable material for minors, considered as a whole, appeals to prurient interests;

(2) Depicts or describes in a patently offensive manner, ultimate sexual acts, excretory functions, masturbation or lewd exhibition of the genitals; and

(3) When considered as a whole, lacks serious literary, artistic, political or scientific value.

[PL 1983, c. 300, §6 (AMD).]

[PL 1983, c. 300, §6 (AMD).]

**3. Civil violation.** Any person violating this section shall be subject to a forfeiture of not more than \$250.

[PL 1979, c. 127, §123 (NEW).]

#### SECTION HISTORY

PL 1979, c. 127, §123 (NEW). PL 1983, c. 300, §6 (AMD). RR 2009, c. 2, §37 (COR).

### §2913. Exhibiting obscene motion pictures to minors at outdoor motion picture theaters

**1. Definitions.** For purposes of this section, unless the context indicates otherwise, the following terms have the following meanings.

A. "Exhibit" means to display for viewing by the public. [PL 1983, c. 300, §7 (NEW).]

B. "Obscene motion picture" means a motion picture which:

(1) To the average individual applying contemporary community standards with respect to what is suitable material for minors, considered as a whole, appeals to prurient interests;

(2) Depicts or describes in a patently offensive manner, ultimate sexual acts, excretory functions, masturbation or lewd exhibition of the genitals; and

(3) When considered as a whole, lacks serious literary, artistic, political or scientific value.  
[PL 1983, c. 300, §7 (NEW).]

[PL 1983, c. 300, §7 (NEW).]

**2. Exhibiting obscene motion pictures.** A person is guilty of exhibiting obscene motion pictures to a minor at an outdoor motion picture theater if he knowingly exhibits an obscene motion picture declared obscene in an action to which he was a party pursuant to subsection 3, at an outdoor motion picture theater in such a manner that the exhibition is visible by minors from or in any public street, highway, sidewalk, thoroughfare, private residence or place of public accommodation.

[PL 1983, c. 300, §7 (NEW).]

**3. Procedure for adjudicating obscenity.** Whenever the Attorney General, or any district attorney, reasonably believes a person is exhibiting at an outdoor motion picture theater a motion picture that is obscene, the Attorney General or district attorney may petition the Superior Court to declare the motion picture obscene pursuant to Title 14, sections 5951 to 5963. The Attorney General, or district attorney, may join all persons the Attorney General or district attorney reasonably believes to be exhibiting that motion picture to minors as parties to the action. The hearing on that petition may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require.

A. Trial on the issue of obscenity must be by jury. [PL 2011, c. 559, Pt. A, §19 (AMD).]

B. Intervention by others exhibiting the same motion picture must be freely allowed. [PL 2011, c. 559, Pt. A, §19 (AMD).]

C. Determination by a court, pursuant to this subsection, that a motion picture is obscene does not bar relitigation of that issue in a criminal prosecution under this section. [PL 2011, c. 559, Pt. A, §19 (AMD).]

[PL 2011, c. 559, Pt. A, §19 (AMD).]

**4. Penalty.** Exhibiting obscene motion pictures to a minor at an outdoor motion picture theater is a Class D crime.

[PL 1983, c. 300, §7 (NEW).]

#### SECTION HISTORY

PL 1983, c. 300, §7 (NEW). PL 2011, c. 559, Pt. A, §19 (AMD).

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