

TITLE 18
CRIMES AND PUNISHMENTS
CHAPTER 15

CHILDREN AND VULNERABLE ADULTS

18-1514. OBSCENE MATERIALS — DEFINITIONS. The following definitions are applicable to this act:

1. "Minor" means any person less than eighteen (18) years of age.

2. "Nudity" means the showing of the human male or female genitals, pubic area or buttocks with less than a full opaque covering, or the showing of the female breast with less than a full opaque covering of any portion thereof below the top of the nipple, or the depiction of covered male genitals in a discernibly turgid state.

3. "Sexual conduct" means any act of masturbation, homosexuality, sexual intercourse, or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks or, if such person be a female, the breast.

4. "Sexual excitement" means the condition of human male or female genitals when in a state of sexual stimulation or arousal.

5. "Sado-masochistic abuse" means flagellation or torture by or upon a person who is nude or clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one who is nude or so clothed.

6. "Harmful to minors" includes in its meaning one or both of the following:

(a) The quality of any material or of any performance or of any description or representation, in whatever form, of nudity, sexual conduct, sexual excitement, or sado-masochistic abuse, when it:

(1) appeals to the prurient interest of minors as judged by the average person, applying contemporary community standards; and

(2) depicts or describes representations or descriptions of nudity, sexual conduct, sexual excitement, or sado-masochistic abuse which are patently offensive to prevailing standards in the adult community with respect to what is suitable material for minors and includes, but is not limited to, patently offensive representations or descriptions of:

(i) intimate sexual acts, normal or perverted, actual or simulated; or

(ii) masturbation, excretory functions or lewd exhibition of the genitals or genital area. Nothing herein contained is intended to include or proscribe any matter which, when considered as a whole, and in context in which it is used, possesses serious literary, artistic, political or scientific value for minors, according to prevailing standards in the adult community, with respect to what is suitable for minors.

(b) The quality of any material or of any performance, or of any description or representation, in whatever form, which, as a whole, has the dominant effect of substantially arousing sexual desires in persons under the age of eighteen (18) years.

7. "Material" means anything tangible which is harmful to minors, whether derived through the medium of reading, observation or sound.

8. "Performance" means any play, motion picture, dance or other exhibition performed before an audience.

9. "Promote" means to manufacture, issue, sell, give, provide, deliver, publish, distribute, circulate, disseminate, present, exhibit or advertise, or to offer or agree to do the same.

10. "Knowingly" means having general knowledge of, or reason to know, or a belief or reasonable ground for belief which warrants further inspection or inquiry.

History:

[I.C., sec. 18-1514, as added by 1972, ch. 336, sec. 1, p. 874; am. 1976, ch. 81, sec. 15, p. 267.]

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18-1515. DISSEMINATING MATERIAL HARMFUL TO MINORS - DEFINED - PENALTY. A person is guilty of disseminating material harmful to minors when:

1. He knowingly gives or makes available to a minor or promotes or possesses with intent to promote to minors, or he knowingly sells or loans to a minor for monetary consideration:

(a) Any picture, photograph, drawing, sculpture, motion picture film, or similar visual representation or image of a person or portion of the human body which depicts nudity, sexual conduct or sado-masochistic abuse and which is harmful to minors; or

(b) Any book, pamphlet, magazine, printed matter however reproduced, or sound recording which contains any matter enumerated in paragraph (a) hereof, or explicit and detailed verbal descriptions or narrative accounts of sexual excitement, sexual conduct or sado-masochistic abuse and which, taken as a whole, is harmful to minors; or

(c) Any other material harmful to minors.

2. With reference to a motion picture, show or other presentation which depicts nudity, sexual conduct or sado-masochistic abuse, and which is harmful to minors, he knowingly:

(a) Exhibits such motion picture, show or other presentation to a minor for a monetary consideration; or

(b) Sells to a minor an admission ticket or pass to premises whereon there is exhibited or to be exhibited such motion picture, show or other presentation; or

(c) Admits a minor for a monetary consideration to premises whereon there is exhibited or to be exhibited such motion picture, show or other presentation; or

(d) Exhibits such motion picture, show or other presentation to a minor not for a monetary consideration; or

(e) Gives without monetary consideration to a minor an admission ticket or pass to premises where there is exhibited or to be exhibited such motion picture, show, or other presentation.

Disseminating material harmful to minors is a misdemeanor punishable by confinement in the county jail not to exceed one (1) year, or by a fine not to exceed one thousand dollars (\$1,000), or by both such fine and jail sentence.

History:

[I.C., sec. 18-1515, as added by 1972, ch. 336, sec. 1, p. 875.]

18-1516. MISREPRESENTATIONS – PARENTHOOD OR AGE – MISDEMEANOR. A person is guilty of a misdemeanor when:

1. He knowingly misrepresents that he is a parent or guardian of a minor for the purpose of obtaining admission of any minor to any motion picture, show, or other presentation which is harmful to minors as defined in section 18-1515, subsection 2.

2. If he is a minor and misrepresents his age for the purpose of obtaining admission to any motion picture, show, or other presentation which is harmful to minors as defined in section 18-1515, subsection 2.

History:

[I.C., sec. 18-1516, as added by 1972, ch. 336, sec. 1, p. 876.]

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18-1517. DISSEMINATING MATERIAL HARMFUL TO MINORS – DEFENSES. 1.

In any prosecution for disseminating material harmful to minors, it is an affirmative defense that:

(a) The defendant had reasonable cause to believe that the minor involved was eighteen (18) years old or more, or such minor exhibited to the defendant a draft card, driver's license, birth certificate, or other official or apparently official document purporting to establish that the minor was eighteen (18) years of age or older.

(b) The minor involved was accompanied by his parent or legal guardian, or by an adult and the adult represented that he was the minor's parent or guardian or an adult and signed a written statement to that effect.

(c) The defendant was the parent or guardian of the minor involved.

(d) The defendant was a bona fide school, college, university, museum or public library, or was acting in his capacity as an employee of such an organization or a retail outlet affiliated with and serving the educational purposes of such an organization.

History:

[I.C., sec. 18-1517, as added by 1972, ch. 336, sec. 1, p. 876.]