

CHAPTER 11

SEX OFFENSES

SECTION:

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11-11-1: **PUBLIC INDECENCY:**

- A. Any person of the age of seventeen (17) years and upwards who performs the following act in a public place commits a public indecency:
 - 1. A lewd exposure of the body done with intent to arouse or to satisfy the sexual desire of the person.
- B. "Public place", for purposes of this Section, means any place where the conduct is or may reasonably be expected to be viewed by others.

11-11-2: **PROSTITUTION:**

Any person who performs, offers or agrees to perform any act of sexual penetration as defined in 720 ILCS 5/12-12 of the Illinois Compiled Statutes for money, or any touching or fondling of the sex organs of one person by another, for money or anything of value, for the purpose of sexual arousal or gratification, commits an act of prostitution.

11-11-3: **SOLICITING FOR A PROSTITUTE:**

Any person who performs any of the following acts commits soliciting for a prostitute:

- A. Solicits another for the purpose of prostitution; or
- B. Arranges or offers to arrange a meeting of persons for the purpose of prostitution; or
- C. Directs another to a place knowing such direction is for the purpose of prostitution.

11-11-4: PATRONIZING A PROSTITUTE:

Any person who performs any of the following acts with a person not his or her spouse commits the offense of patronizing a prostitute:

- A. Engages in an act of sexual penetration as defined in 720 ILCS 5/12-12 of the Illinois Compiled Statutes, with a prostitute; or
- B. Enters or remains in a place of prostitution with intent to engage in an act of sexual penetration as defined in 720 ILCS 5/12-12 of the Illinois Compiled Statutes.

11-11-5: PIMPING:

Any person who receives money or other property from a prostitute, not for lawful consideration, knowing it was earned in whole or in part from the practice of prostitution, commits pimping.

11-11-6: OBSCENITY:

- A. Elements of the Offense: A person commits obscenity when, with the knowledge of the nature or content thereof, or recklessly failing to exercise reasonable inspection which would have disclosed the nature or content thereof, he or she:
 - 1. Sells, delivers or provides, or offers or agrees to sell, deliver or provide any obscene writing, picture, record, or other representation or embodiment of the obscene; or
 - 2. Presents or directs an obscene play, dance or other performance or participates directly in that portion thereof which makes it obscene; or

3. Publishes, exhibits or otherwise makes available anything obscene; or
4. Performs an obscene act or otherwise presents an obscene exhibition of his or her body for gain; or
5. Creates, buys, procures or possesses obscene matter or material with intent to disseminate it in violation of this Section, or of the penal laws or regulations of any other jurisdiction; or
6. Advertises or otherwise promotes the sale of material represented or held out by the person to be obscene, whether or not it is obscene.

B. Obscene Defined: Any material or performance is obscene if:

1. The average person, applying contemporary adult community standards, would find that, taken as a whole, it appeals to the prurient interest; and
2. The average person, applying contemporary adult community standards, would find that it depicts or describes, in a patently offensive way, ultimate sexual acts or sadomasochistic sexual acts, whether normal or perverted, actual or stimulated, or masturbation, excretory functions or lewd exhibition of the genitals; and
3. Taken as a whole, it lacks serious literary, artistic, political or scientific value.

C. Interpretation of Evidence: Obscenity shall be judged with reference to ordinary adults, except that it shall be judged with reference to children or other specially susceptible audiences if it appears from the character of the material or the circumstances of its dissemination to be specially designed for or directed to such an audience.

Where circumstances of production, presentation, sale, dissemination, distribution, or publicity indicate that material is being commercially exploited for the sake of its prurient appeal, such evidence is probative with respect to the nature of the matter and can justify the conclusion that the matter is lacking in serious literary, artistic, political or scientific value.

In any prosecution for an offense under this Section, evidence shall be admissible to show:

1. The character of the audience for which the material was designed or to which it was directed;

2. What the predominant appeal of the material would be for ordinary adults or a special audience, and what effect, if any, it would probably have on the behavior of such people;
3. The artistic, literary, scientific, educational or other merits of the material, or absence thereof;
4. The degree, if any, of public acceptance of the material in this State;
5. Appeal to prurient interest, or absence thereof, in advertising or other promotion of the material;
6. Purpose of the author, creator, publisher or disseminator.

D. Prima Facie Evidence: The creation, purchase, procurement or possession of a mold, engraved plate or other embodiment of obscenity specially adapted for reproducing multiple copies, or the possession of more than three (3) copies of obscene material shall be prima facie evidence of an intent to disseminate.

E. Affirmative Defenses: It shall be an affirmative defense to obscenity that the dissemination:

1. Was not for gain and was made to personal associates other than children under eighteen (18) years of age;
2. Was to institutions or individuals having scientific or other special justification for possession of such material.

11-11-7: HARMFUL MATERIAL:

A. Elements of the Offense: It shall be unlawful for a person with knowledge that a person is a child, knowingly distribute to or sends or cause to be sent to, or exhibit to, or offer to distribute or exhibit any harmful material to a child. For purposes of this Section, a person will be deemed to have knowledge of a child's age if the person actually knows the age or fails to exercise reasonable care in ascertaining the child's true age.

B. Definitions:

1. Material is harmful if, to the average person, applying contemporary standards, its predominant appeal, taken as a whole, is prurient interest, that is a shameful or morbid interest in nudity, sex, or excretion, which

goes substantially beyond customary limits of candor in description or representation of such matter, and is material the redeeming social importance of which is substantially less than its prurient appeal.

2. Material, as used in this Section, means any writing, picture, record or other representation or embodiment.
3. Distribute means to transfer possession of, whether with or without consideration.
4. Knowingly, as used in this Section, means having knowledge of the contents of the subject matter, or recklessly failing to exercise reasonable inspection which would have disclosed its contents.

- C. Interpretation of Evidence: The predominant appeal to prurient interest of the material shall be judged with reference to average children of the same general age of the child to whom such material was offered, distributed, sent or exhibited, unless it appears from the nature of the matter or the circumstances of its dissemination, distribution or exhibition that it is designed for specially susceptible groups, in which case the predominant appeal of the material shall be judged with reference to its intended or probable recipient group.

In prosecution under this Section, where circumstances of production, presentation, sale, dissemination, distribution, or publicity indicate the material is being commercially exploited for the sake of its prurient appeal, such evidence is probative with respect to the nature of the material and can justify the conclusion that the redeeming social importance of the material is in fact substantially less than its prurient appeal.

- D. Affirmative Defenses: Affirmative defenses are those set forth in 720 ILCS 5/11-21(e) of the Illinois Compiled Statutes.