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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2024

A N A C T

**RELATING TO CRIMINAL OFFENSES -- OBSCENE AND OBJECTIONABLE
PUBLICATIONS AND SHOWS**

Introduced By: Senators McKenney, Gallo, Euer, Mack, and Miller

Date Introduced: February 12, 2024

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 11-31-1 and 11-31-10 of the General Laws in Chapter 11-31 entitled
2 "Obscene and Objectionable Publications and Shows" are hereby amended to read as follows:

3 **11-31-1. Circulation of obscene publications and shows.**

4 (a) Every person who willfully or knowingly promotes for the purpose of commercial gain
5 within the community any show, motion picture, performance, photograph, book, magazine, or
6 other material which is obscene shall, upon conviction, be punished by a fine of not less than one
7 hundred dollars (\$100) nor more than one thousand dollars (\$1,000), or by imprisonment for not
8 more than two (2) years, or both.

9 (b) For the purpose of this section:

10 (1) In determining whether or not a show, motion picture, performance, photograph, book,
11 magazine, or other material is obscene the trier of the fact must find:

12 (i) That the average person, applying contemporary community standards, would find that
13 the work, taken as a whole, appeals to the prurient interest;

14 (ii) That the work depicts or describes, in a patently offensive way, sexual conduct
15 specifically defined by this chapter; and

16 (iii) That the work, taken as a whole, lacks serious literary, artistic, educational, political,
17 or scientific value.

18 (2) "Community standards" means the geographical area of the state of Rhode Island.

1 (3) “Knowingly” means having knowledge of the character and content of the material or
2 failure on notice to exercise reasonable inspection which would disclose the content and character
3 of it.

4 (4) “Material” means anything tangible which is capable of being used or adapted to arouse
5 prurient interest through the medium of reading, or observation.

6 (5) “Patently offensive” means so offensive on its face as to affront current standards of
7 decency.

8 (6) “Performance” means any play, motion picture, dance, or other exhibition performed
9 before an audience.

10 (7) “Promote” means to manufacture, issue, sell, give, provide, lend, mail, deliver, transfer,
11 transmit, publish, distribute, circulate, disseminate, present, exhibit, or advertise or to offer or agree
12 to do it for resale.

13 (8) “Sexual conduct” means:

14 (i) An act of sexual intercourse, normal or perverted, actual or simulated, including genital-
15 genital, anal-genital, or oral-genital intercourse, whether between human beings or between a
16 human being and an animal.

17 (ii) Sado-masochistic abuse, meaning flagellation or torture by or upon a person in an act
18 of apparent sexual stimulation or gratification.

19 (iii) Masturbation, excretory functions, and lewd exhibitions of the genitals.

20 (9) “Standards of decency” means community standards of decency.

21 (c) If any of the depictions and descriptions of sexual conduct described in this section are
22 declared by a court of competent jurisdiction to be unlawfully included because the depictions or
23 descriptions are constitutionally protected or for any other reason, that declaration shall not
24 invalidate this chapter as to other sexual conduct included in this chapter.

25 **11-31-10. Sale or exhibition to minors of indecent publications, pictures, or articles.**

26 (a) Every person who shall willfully or knowingly engage in the business of selling,
27 lending, giving away, showing, advertising for sale, or distributing to any person under the age of
28 eighteen (18) years, has in his or her possession with intent to engage in that business or to
29 otherwise offer for sale or commercial distribution to any person under the age of eighteen (18)
30 years, or who shall display at newsstands or any other business establishment frequented by persons
31 under the age of eighteen (18) years or where persons under the age of eighteen (18) years are or
32 may be invited as a part of the general public, any motion picture, any still picture, photograph, or
33 any book, pocket book, pamphlet, or magazine of which the cover or content consists of explicit
34 representations of “sexual conduct”, “sexual excitement”, “nudity” and which is indecent for

1 minors or which is predominantly made up of descriptions of “sexual conduct”, “sexual
2 excitement”, “nudity” and which is indecent, shall, upon conviction, be punished by a fine of not
3 less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000), or by
4 imprisonment for not more than two (2) years, or both.

5 (b) As used in this section, the following words have the following meaning:

6 (1) “Indecent for minors” means:

7 (i) Appealing to the prurient interest in sex of minors;

8 (ii) Patently offensive to prevailing standards in the adult community with respect to what
9 is suitable material for minors; and

10 (iii) Lacking serious literary, artistic, educational, political, or scientific value for minors;

11 (2) “Knowingly” means having knowledge of the character and content of the publication
12 or failure on notice to exercise reasonable inspection which would disclose its content and
13 character;

14 (3) “Nudity” means less than completely and opaquely covered; human genitals, pubic
15 regions, buttock, and female breast below a point immediately above the top of the areola;

16 (4) “Sexual conduct” means act of human masturbation, sexual intercourse, sodomy,
17 fondling, or other erotic touching of human genitals, pubic region, buttock, or female breasts; and

18 (5) “Sexual excitement” means human genitals in a state of sexual stimulation or arousal.

19 SECTION 2. Chapter 11-31 of the General Laws entitled "Obscene and Objectionable
20 Publications and Shows" is hereby amended by adding thereto the following section:

21 **11-31-16. Affirmative defense.**

22 It is in the interest of the state to protect the financial resources of libraries and educational
23 institutions from being expended in litigation and to permit these resources to be used to the greatest
24 extent possible for fulfilling the essential purpose of libraries and educational institutions.

25 In any prosecution arising under §§ 11-31-1 or 11-31-10, it is an affirmative defense that
26 the defendant was a bona fide school, museum, or public library, or was a person acting in the
27 course of employment as an employee or official of such organization.

28 SECTION 3. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO CRIMINAL OFFENSES -- OBSCENE AND OBJECTIONABLE
PUBLICATIONS AND SHOWS

1 This act would establish, as an affirmative defense to the crimes of circulating obscene
2 publications or shows and selling or exhibiting obscene publications to minors, the person's
3 employment status as an employee of a school, museum, or library.

4 This act would take effect upon passage.

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