

MAINE STATE LEGISLATURE

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ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 894

S. P. 281

In Senate, March 15, 1977

Referred to Committee on Legal Affairs. Sent down for concurrence and 2,000 ordered printed.

MAY M. ROSS, Secretary

Presented by Senator Hichens of York.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SEVEN

AN ACT Prohibiting the Dissemination of Obscene Matter to Minors.

Be it enacted by the People of the State of Maine, as follows:

17 MRSA § 2903 is repealed and the following enacted in its place:

§ 2903. Dissemination of obscene matter to minors

1. 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 adjudicated obscene pursuant to subsection 3.

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

A. "Distribute" means to transfer possession, whether with or without consideration;

B. "Exhibit" means to display for viewing by the public;

C. "Matter" means any printed or written material, any picture, photograph, motion picture or other visual representation, any live conduct, any recording, mechanical or electrical production, or any other articles, equipment, machines or materials; and

D. "Obscene matter" means matter which, to the average individual, applying contemporary community standards:

(1) 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.

3. Procedure for adjudicating obscenity. Whenever the Attorney General, or any district attorney, reasonably believes a person is disseminating to minors matter which is obscene, he may petition the Superior Court to declare the matter obscene pursuant to Title 14, sections 5951 to 5963.

Trial on the issue of obscenity shall be by jury.

Intervention by others disseminating the same matter shall be freely allowed.

4. Penalty. Disseminating obscene matter to a minor is a Class D crime.

STATEMENT OF FACT

The purpose of this bill is to prohibit the dissemination of obscene matter to minors.

The bill defines obscene matter consistent with the United States Supreme Court's standards and eliminates the fair notice problem of the current law by providing for a declaratory judgment proceeding in which matter may be judicially declared obscene. In addition, dissemination of obscene matter to minors is made a Class D crime, consistent with the penalty classifications of the Maine Criminal Code.

The standard which requires that the disseminator "knowingly" distributes the obscene material to a minor would prevent prosecution of those disseminating obscene matter to individuals believed to be adults.