

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND ELEVENTH LEGISLATURE
4

5 Legislative Document

No. 379

6
7 H.P. 320

House of Representatives, February 1, 1983

8 On Motion of Representative Hobbins of Saco referred to the Committee
9 on Judiciary. Sent up for concurrence and ordered printed.

10 EDWIN H. PERT, Clerk

11 Presented by Representative Higgins of Scarborough.
Cosponsor: Representative Livesay of Brunswick.

12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-THREE
16

17 AN ACT to Strengthen the Laws Relating
18 to the Sexual Exploitation of Minors.
19

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

22 17 MRSA §2923, sub-§1, as enacted by 1977, c.
23 628, § 1, is repealed and the following enacted in
24 its place:

25 1. Offense. A person is guilty of dissemination
26 of sexually explicit material if he intentionally or
27 knowingly disseminates or possesses with intent to
28 disseminate any book, magazine, print, negative,
29 slide, motion picture, videotape or other mechan-
30 ically reproduced visual material which depicts any
31 minor, who the person knows or has reason to know is
32 a minor, engaging in sexually explicit conduct.

1 STATEMENT OF FACT

2 The purpose of this bill is to strengthen the
3 laws relating to the sexual exploitation of minors.
4 Current Maine law requires that for a person to be
5 found guilty of disseminating sexually explicit mate-
6 rials involving minors the materials must, among
7 other things, be found to be obscene. The recent
8 decision of the United States Supreme Court in New
9 York v. Ferber (50LW5077) held, however, that a find-
10 ing of obscenity was not required when the material
11 involved illustrated sexually explicit conduct by
12 minors. The Ferber decision thus illustrates the
13 court's willingness to grant the states greater lee-
14 way in the regulation of pornographic depiction of
15 children than in other areas where First Amendment
16 rights come into play.

17 This bill changes Maine law by deleting the re-
18 quirement that the materials involving minors be
19 found to be obscene before a prosecution can result.
20 The change is constitutional in light of the Ferber
21 decision and will make it easier to obtain the prose-
22 cution of those engaged in the dissemination of child
23 pornography.

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