



**H.B. 191**

127th General Assembly  
(As Introduced)

Reps. Goodwin, Wachtmann, J. McGregor, Miller, Setzer, Stebelton,  
Wagoner

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**BILL SUMMARY**

- Provides that in a criminal proceeding any obscene material that has a minor as one of its participants or portrayed observers must remain in the care, custody, and control of either the prosecuting attorney or the court.
- Directs a court in a criminal proceeding to deny a request by the defendant to reproduce any obscene material that has a minor as one of its participants or portrayed observers if the prosecuting attorney or court makes the material reasonably available to the defendant for discovery and inspection.

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**CONTENT AND OPERATION**

**Retention of obscene material with a prosecuting attorney or the court**

The bill provides that in a criminal proceeding any obscene material that has a minor as one of its participants or portrayed observers must remain in the care, custody, and control of either the prosecuting attorney or the court. The bill further provides that in a criminal proceeding the court must deny a request by the defendant to copy, photograph, duplicate, or otherwise reproduce any obscene material that has a minor as one of its participants or portrayed observers if the prosecuting attorney or court makes the material reasonably available to the defendant for discovery and inspection. Material is considered to be reasonably available to the defendant for discovery and inspection if the prosecuting attorney or court provides ample opportunity for the defendant, the defendant's attorney, and any individual the defendant may seek to qualify as an expert witness at trial to inspect, view, and examine the material at the prosecuting attorney's office or another location under the control of a public official. (R.C. 2945.60(B) and (C).)

## Definitions

The following terms are defined by the bill as follows (R.C. 2945.60(A), referencing R.C. 2907.01):

(1) When considered as a whole, and judged with reference to ordinary adults or, if it is designed for sexual deviates or other specially susceptible group, judged with reference to that group, any material or performance is "obscene" if any of the following apply:

(a) Its dominant appeal is to prurient interest;

(b) Its dominant tendency is to arouse lust by displaying or depicting sexual activity, masturbation, sexual excitement, or nudity in a way that tends to represent human beings as mere objects of sexual appetite;

(c) Its dominant tendency is to arouse lust by displaying or depicting bestiality or extreme or bizarre violence, cruelty, or brutality;

(d) Its dominant tendency is to appeal to scatological interest by displaying or depicting human bodily functions of elimination in a way that inspires disgust or revulsion in persons with ordinary sensibilities, without serving any genuine scientific, educational, sociological, moral, or artistic purpose;

(e) It contains a series of displays or descriptions of sexual activity, masturbation, sexual excitement, nudity, bestiality, extreme or bizarre violence, cruelty, or brutality, or human bodily functions of elimination, the cumulative effect of which is a dominant tendency to appeal to prurient or scatological interest, when the appeal to such an interest is primarily for its own sake or for commercial exploitation, rather than primarily for a genuine scientific, educational, sociological, moral, or artistic purpose.

(2) "Juvenile" means an unmarried person under the age of 18.

(3) "Material" means any book, magazine, newspaper, pamphlet, poster, print, picture, figure, image, description, motion picture film, phonographic record, or tape, or other tangible thing capable of arousing interest through sight, sound, or touch and includes an image or text appearing on a computer monitor, television screen, liquid crystal display, or similar display device or an image or text recorded on a computer hard disk, computer floppy disk, compact disk, magnetic tape, or similar data storage device.

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## **HISTORY**

ACTION

DATE

Introduced

04-26-07

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