

NOTICE

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**CHAPTER 666
SEX RELATED OFFENSES**

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CROSS REFERENCES

Power to restrain houses of ill fame – see Ohio Revised Code §715.52
 Examination and treatment of venereal disease – see Ohio Revised Code §2907.27
 Psychiatric examination before sentence – see Ohio Revised Code §2947.25
 Registration of sex offenders in cities and counties – see Ohio Revised Code §2950.01 et seq.
 Definitions generally – see GENERAL OFFENSES §606.01
 Abusing or contributing to delinquency of a child – see GENERAL OFFENSES §630.03
 Spreading contagion – see GENERAL OFFENSES §630.02

SECTION 666.01 DEFINITIONS.

As used in this chapter:

(a) “Sexual conduct” means vaginal intercourse between a male and female, and anal intercourse, fellatio and cunnilingus between persons regardless of sex.

(b) “Sexual contact” means any touching of an erogenous zone of another, including, without limitation, the thigh, genitals, buttock, pubic region, or, if such person is a female, a breast, for the purpose of sexually arousing or gratifying either person.

(c) “Sexual activity” means sexual conduct or sexual contact, or both.

(d) "Prostitute" means a male or female who promiscuously engages in sexual activity for hire, regardless of whether the hire is paid to the prostitute or to another.

(e) Any material or performance is "harmful to juveniles", if it is offensive to prevailing standards in the adult community with respect to what is suitable for juveniles, and if any of the following applies:

- (1) It tends to appeal to the prurient interest of juveniles;
- (2) It contains a display, description or representation of sexual activity, masturbation, sexual excitement or nudity;
- (3) It contains a display, description or representation of bestiality or extreme or bizarre violence, cruelty or brutality;
- (4) It contains a display, description or representation of human bodily functions of elimination;
- (5) It makes repeated use of foul language;
- (6) It contains a display, description or representation in lurid detail of the violent physical torture, dismemberment, destruction or death of a human being;
- (7) It contains a display, description or representation of criminal activity which tends to glorify or glamorize such activity and which, with respect to juveniles, has a dominant tendency to corrupt.

(f) 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 such group, any material or performance is "obscene" if any of the following applies:

- (1) Its dominant appeal is to prurient interest;
- (2) Its dominant tendency is to arouse lust by displaying or depicting sexual activity, masturbation, sexual excitement or nudity in a way which tends to represent human beings as mere objects of sexual appetite;
- (3) Its dominant tendency is to arouse lust by displaying or depicting bestiality or extreme or bizarre violence, cruelty or brutality;

- (4) Its dominant tendency is to appeal to scatological interest by displaying or depicting human bodily functions of elimination in a way which inspires disgust or revulsion in persons with ordinary sensibilities, without serving any genuine scientific, educational, sociological, moral or artistic purpose;
- (5) 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 interest is primarily for its own sake or for commercial exploitation, rather than primarily for a genuine scientific, educational, sociological, moral or artistic purpose.
- (g) "Sexual excitement" means the condition of human male or female genitals when in a state of sexual stimulation or arousal.
- (h) "Nudity" means the showing, representation or depiction of human male or female genitals, pubic area or buttocks with less than a full, opaque covering, or of a female breast with less than a full, opaque covering of any portion thereof below the top of the nipple, or of covered male genitals in a discernible turgid state.
- (i) "Juvenile" means any unmarried person under the age of eighteen.
- (j) "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.
- (k) "Performance" means any motion picture, preview, trailer, play, show, skit, dance or other exhibition performed before an audience. (ORC 2907.01)

SECTION 666.02 CORRUPTION OF A MINOR.

- (a) No person, eighteen years of age or older, shall engage in sexual conduct with another, not the spouse of the offender, when the offender knows such other person is over twelve but not over fifteen years of age, or the offender is reckless in that regard.
- (b) Whoever violates this section is guilty of corruption of a minor, a misdemeanor of the first degree, provided the offender is less than four years older than the other person. Punishment shall be as provided in Section 698.02. (ORC 2907.04)

SECTION 666.03 SEXUAL IMPOSITION.

(a) No person shall have sexual contact with another not the spouse of the offender, when any of the following applies:

- (1) The offender knows that the sexual contact is offensive to the other person, or is reckless in that regard.
- (2) The offender knows that the other person's ability to appraise the nature of or control the offender's conduct is substantially impaired.
- (3) The offender knows that the other person submits because of being unaware of the sexual contact.
- (4) The other person is over twelve but not over fifteen years of age, whether or not the offender knows the age of such person, and the offender is at least eighteen years of age and four or more years older than the other person.

(b) No person shall be convicted of a violation of this section solely upon the victim's testimony unsupported by other evidence.

(c) Whoever violates this section is guilty of sexual imposition, a misdemeanor of the third degree. Punishment shall be as provided in Section 698.02. (ORC 2907.06)

SECTION 666.04 IMPORTUNING.

(a) No person shall solicit a person under thirteen years of age to engage in sexual activity with the offender, whether or not the offender knows the age of such person.

(b) No person shall solicit a person of the same sex to engage in sexual activity with the offender, when the offender knows such solicitation is offensive to the other person, or is reckless in that regard.

(c) No person shall solicit another, not the spouse of the offender, to engage in sexual conduct with the offender, when the offender is eighteen years of age or older and four or more years older than the other person, and the other person is over twelve but not over fifteen years of age, whether or not the offender knows the age of the other person.

(d) Whoever violates this section is guilty of importuning. Violation of subsection (a) or (b) hereof is a misdemeanor of the first degree. Violation of subsection (c) hereof is a misdemeanor of the fourth degree. Punishment shall be as provided in Section 698.02. (ORC 2907.07)

SECTION 666.05 VOYEURISM.

(a) No person, for the purpose of sexually arousing or gratifying himself or herself, shall commit trespass or otherwise surreptitiously invade the privacy of another, to spy or eavesdrop upon another.

(b) Whoever violates this section is guilty of voyeurism, a misdemeanor of the third degree.. Punishment shall be as provided in Section 698.02. (ORC 2907.08)

SECTION 666.06 PUBLIC INDECENCY.

(a) No person shall knowingly or intentionally in a public place:

- (1) engage in sexual conduct as defined in O.R.C. 2907.01; or
- (2) engage in conduct which to an ordinary observer would appear to be sexual conduct or masturbation; or
- (3) appear in a state of nudity; or
- (4) fondle the genitals of himself, herself or another person.

(b) "Nudity" means the showing of the human male or female genitals, pubic hair or buttocks with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple; the exposure of any device, costume, or covering which gives the appearance of or simulates the genitals, pubic hair, natal cleft, perineum-anal region or pubic hair region; or the exposure of any device worn as a cover over the nipples and/or areola of the female breast, which device gives the realistic appearance of nipples and/or areola.

(c) "Public Place" includes all outdoor places owned by or open to the general public, and all buildings and enclosed places owned by or open to the general public, including such places of entertainment, taverns, restaurants, clubs, theaters, dance halls, banquet halls, party rooms or halls limited to specific members, restricted to adults or to patrons invited to attend, whether or not an admission charge is levied.

(d) The prohibition set forth in subsection (a)(3) shall not apply to:

- (1) Any child under ten (10) years of age; or
- (2) Any individual exposing a breast in the process of breastfeeding an infant under three (3) years of age.

(e) Whoever violates this section is guilty of a misdemeanor of the first degree. Punishment shall be as provided in Section 698.02.

SECTION 666.07 PROCURING.

(a) No person, knowingly and for gain, shall do either of the following:

- (1) Entice or solicit another to patronize a prostitute or brothel;
- (2) Procure a prostitute for another to patronize, or take or direct another at his or her request to any place for the purpose of patronizing a prostitute.

(b) No person, having authority or responsibility over the use of premises shall knowingly permit such premises to be used for the purpose of engaging in sexual activity for hire.

(c) Whoever violates this section is guilty of procuring, a misdemeanor of the first degree. Punishment shall be as provided in Section 698.02.

SECTION 666.08 SOLICITING.

(a) No person shall solicit another to engage with such other person in sexual activity for hire.

(b) Whoever violates this section is guilty of soliciting, a misdemeanor of the third degree. Punishment shall be as provided in Section 698.02. (O.R.C. 2907.24)

SECTION 666.09 PROSTITUTION.

(a) No person shall engage in sexual activity for hire.

(b) Whoever violates this section is guilty of prostitution, a misdemeanor of the third degree. Punishment shall be as provided in Section 698.02. (ORC 2907.25)

SECTION 666.10 RULES OF EVIDENCE.

(a) In any case in which it is necessary to prove that a place is a brothel, evidence as to the reputation of such place and as to the reputation of the persons who inhabit or frequent it, is admissible on the question of whether such place is or is not a brothel.

(b) In any case in which it is necessary to prove that a person is a prostitute, evidence as to the reputation of such person is admissible on the question of whether such person is or is not a prostitute.

(c) In any prosecution for a violation of Sections 666.07 to 666.09, proof of a prior conviction of the accused of any such offense or substantially equivalent offense is admissible in support of the charge.

(d) The prohibition contained in Ohio Revised Code 2917.02(C) against testimony by a husband or wife concerning communications between them does not apply, and the accused's spouse may testify concerning any such communication in any of the following cases:

- (1) When the husband or wife is charged with a violation of Section 666.07 and the spouse testifying was the prostitute involved in the offense or the person who used the offender's premises to engage in sexual activity for hire;
- (2) When the husband or wife is charged with a violation of Section 666.08 or 666.09. (O.R.C. 2907.26)

SECTION 666.11 DISSEMINATING MATTER HARMFUL TO JUVENILES.

(a) No person, with knowledge of its character, shall recklessly furnish or present to a juvenile any material or performance which is obscene or harmful to juveniles.

(b) The following are affirmative defenses to a charge under this section involving material or a performance which is harmful to juveniles but not obscene:

- (1) The defendant is the parent, guardian or spouse of the juvenile involved.
- (2) The juvenile involved, at the time the material or performance was presented to him, was accompanied by his parent or guardian who, with knowledge of its character, consented to the material or performance being furnished or presented to the juvenile.
- (3) The juvenile exhibited to the defendant or his agent or employee a draft card, driver's license, birth certificate, marriage license or other official or apparently official document purporting to show that such juvenile was eighteen years of age or over, or married, and the person to whom such document was exhibited did not otherwise have

reasonable cause to believe that such juvenile was under the age of eighteen and unmarried.

(c) It is an affirmative defense to a charge under this section, involving material or a performance which is obscene or harmful to juveniles, that such material or performance was furnished or presented for a bona fide medical, scientific, educational, governmental, judicial or other proper purpose, by a physician, psychologist, sociologist, scientist, teacher, librarian, clergyman, prosecutor, judge or other proper person.

(d) Whoever violates this section is guilty of disseminating matter harmful to juveniles, a misdemeanor of the first degree, provided the material or performance involved is harmful to juveniles, but not obscene. Punishment shall be as provided in Section 698.02. (O.R.C. 2907.31)

SECTION 666.12 PANDERING OBSCENITY.

(a) No person, with knowledge of the character of the material or performance involved, shall do any of the following:

- (1) Create, reproduce or publish any obscene material, when the offender knows that such material is to be used for commercial exploitation or will be publicly disseminated or displayed, or when he is reckless in that regard;
- (2) Exhibit or advertise for sale or dissemination, or sell or publicly disseminate or display any obscene material;
- (3) Create, direct or produce an obscene performance, when the offender knows that it is to be used for commercial exploitation or will be publicly presented, or when he is reckless in that regard;
- (4) Advertise an obscene performance for presentation, or present or participate in presenting an obscene performance, when such performance is presented publicly, or when admission is charged;
- (5) Possess or control any obscene material with purpose to violate subparagraph (2) or (4) hereof.

(b) It is an affirmative defense to a charge under this section that the material or performance involved was disseminated or presented for a bona fide medical, scientific, educational, religious, governmental, judicial or other proper purpose, by or to a physician, psychologist, sociologist, scientist, teacher, person pursuing bona fide studies or research, librarian, clergyman, prosecutor, judge or other person having a proper interest in such material or performance.

(c) Whoever violates this section is guilty of pandering obscenity, a misdemeanor of the first degree, provided the offender has not previously been convicted of a violation of this section or of Section 666.11. Punishment shall be as provided in Section 698.02. (O.R.C. 2907.32)

SECTION 666.13 DECEPTION TO OBTAIN MATTER HARMFUL TO JUVENILES.

(a) No person, for the purpose of enabling a juvenile to obtain any material or gain admission to any performance which is harmful to juveniles, shall do either of the following:

- (1) Falsely represent that he is the parent, guardian or spouse of such juvenile;
- (2) Furnish such juvenile with any identification or document purporting to show that such juvenile is eighteen years of age or over or married.

(b) No juvenile, for the purpose of obtaining any material or gaining admission to any performance which is harmful to juveniles, shall do either of the following:

- (1) Falsely represent that he is eighteen years of age or over or married;
- (2) Exhibit any identification or document purporting to show that he is eighteen years of age or over or married.

(c) Whoever violates this section is guilty of deception to obtain matter harmful to juveniles, a misdemeanor of the second degree. Punishment shall be as provided in Section 698.02. A juvenile who violates subsection (b) hereof shall be adjudged an unruly child, with such disposition of the case as may be appropriate under Ohio Revised Code Chapter 2151. (O.R.C. 2907.33)

SECTION 666.14 PRESUMPTIONS; NOTICE.

(a) An owner or manager, or his agent or employee, of a bookstore, newsstand, theater or other commercial establishment engaged in selling materials or exhibiting performances, who, in the course of business:

- (1) Possesses five or more identical or substantially similar obscene articles, having knowledge of their character, is presumed to possess them in violation of Section 666.12(a).

- (2) Does any of the acts prohibited by Section 666.11 or 666.12, is presumed to have knowledge of the character of the material or performance involved if he has actual notice of the nature of such material or performance whether or not he has precise knowledge of its contents.

(b) Without limitation on the manner in which such notice may be given, actual notice of the character of material or a performance may be given in writing by the chief legal officer of the municipality. Such notice, regardless of the manner in which it is given, shall identify the sender, identify the material or performance involved, state whether it is obscene or harmful to juveniles, and bear the date of such notice.

(c) Sections 666.11 and 666.12 do not apply to a motion picture operator or projectionist acting within the scope of his employment as an employee of the owner or manager of a theater or other place for the showing of motion pictures to the general public and having no managerial responsibility or financial interest in his place of employment, other than wages. (O.R.C. 2907.35)

SECTION 666.15 DECLARATORY JUDGMENT.

(a) Without limitation on the persons otherwise entitled to bring an action for a declaratory judgment pursuant to Ohio Revised Code 2721.01 to 2721.15, involving the same issue, the following persons have standing to bring such an action to determine whether particular materials or performances are obscene or harmful to juveniles:

- (1) The chief legal officer of the municipality if and when there is reasonable cause to believe that Section 666.11 or 666.12 is being or is about to be violated.
- (2) Any person who, pursuant to Section 666.14(b) has received notice in writing from the chief legal officer stating that particular materials or performances are obscene or harmful to juveniles.

(b) Any party to an action for a declaratory judgment pursuant to subsection (a) hereof is entitled, upon his request, to trial on the merits within five days after joinder of the issues, and the court shall render judgment within five days after trial is concluded.

(c) An action for a declaratory judgment pursuant to subsection (a) hereof shall not be brought during the pendency of any civil action or criminal prosecution when the character of the particular materials or performances involved is at issue in the pending case, and either of the following applies:

- (1) Either of the parties to the action for a declaratory judgment is a party to the pending case;

(2) A judgment in the pending case will necessarily constitute res judicata as to the character of the materials or performances involved

(d) A civil action or criminal prosecution in which the character of particular materials or performances is at issue, brought during the pendency of an action for a declaratory judgment involving the same issue, shall be stayed during the pendency of the action for a declaratory judgment.

(e) The fact that a violation of Section 666.11 or 666.12 occurs prior to a judicial determination of the character of the material or performance involved in the violation, does not relieve the offender of criminal liability for the violation, even though prosecution may be stayed pending the judicial determination. (O.R.C. 2907.36)

SECTION 666.16 INJUNCTION; ABATEMENT OF NUISANCE.

(a) Where it appears that Section 666.11 or 666.12 is being or about to be violated, the chief legal officer of the municipality, when the violation is taking place or is about to take place, may bring an action to enjoin the violation. The defendant, upon his request, is entitled to trial on the merits within five days after joinder of the issues, and the court shall render judgment within five days after trial is concluded.

(b) Premises used or occupied for repeated violations of Section 666.11 or 666.12 constitute a nuisance subject to abatement pursuant to Ohio Revised Code 3767.01 to 3767.99. (O.R.C. 2907.37)

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