

IC 35-49-2

Chapter 2. General Provisions

IC 35-49-2-1

Obscene matter or performance

Sec. 1. A matter or performance is obscene for purposes of this article if:

- (1) the average person, applying contemporary community standards, finds that the dominant theme of the matter or performance, taken as a whole, appeals to the prurient interest in sex;
- (2) the matter or performance depicts or describes, in a patently offensive way, sexual conduct; and
- (3) the matter or performance, taken as a whole, lacks serious literary, artistic, political, or scientific value.

As added by P.L.311-1983, SEC.33.

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Matter or performance harmful to minors

Sec. 2. A matter or performance is harmful to minors for purposes of this article if:

- (1) it describes or represents, in any form, nudity, sexual conduct, sexual excitement, or sado-masochistic abuse;
- (2) considered as a whole, it appeals to the prurient interest in sex of minors;
- (3) it is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable matter for or performance before minors; and
- (4) considered as a whole, it lacks serious literary, artistic, political, or scientific value for minors.

As added by P.L.311-1983, SEC.33.

IC 35-49-2-3

Arrest; search; seizure of matter; motion pictures

Sec. 3. (a) Whenever a person:

- (1) offers matter for distribution to the public as stock-in-trade of a lawful business or activity; or
- (2) exhibits matter at a commercial theater showing regularly scheduled performances to the general public;

the person may be arrested under this article only if the arresting officer has first obtained an arrest warrant, and matter may be seized as evidence only if a search warrant has first been obtained.

(b) The quantity of matter seized may encompass no more than is reasonable and necessary for the purpose of obtaining evidence.

(c) If:

- (1) the subject of a seizure under this chapter is a motion picture that is allegedly harmful to minors; and
- (2) the defendant or owner of the motion picture proves that

other copies of the motion picture are not available for exhibition;
the court shall order that the defendant or owner may, at his own expense, copy the motion picture and continue showing the motion picture to adults pending a preliminary determination under section 4(b) of this chapter.
As added by P.L.311-1983, SEC.33.

IC 35-49-2-4

Adversary hearing; application; preliminary determination

Sec. 4. (a) Within ten (10) days after:

- (1) matter is obtained by seizure or by purchase under this article; or
- (2) the defendant is arrested under this article;

whichever is later, and before trial, the state, the defendant, an owner, or any other party in interest of any matter seized or purchased may apply for and obtain a prompt adversary hearing for the purpose described in subsection (b).

(b) At the adversary hearing, the court shall make a preliminary determination of whether the matter is:

- (1) probably obscene; or
- (2) probably harmful to minors.

As added by P.L.311-1983, SEC.33.

IC 35-49-2-5

Application of article

Sec. 5. This article does not limit the power of political subdivisions to adopt or enforce zoning ordinances regulating the use of real property.

As added by P.L.311-1983, SEC.33.