



104TH GENERAL ASSEMBLY

State of Illinois

2025 and 2026

HB4311

Introduced 1/14/2026, by Rep. Jay Hoffman

SYNOPSIS AS INTRODUCED:

720 ILCS 5/11-20

from Ch. 38, par. 11-20

Amends the Criminal Code of 2012. Provides that any person who is harmed by the unlawful sale, distribution, promotion, or exhibition of obscene material may bring a civil action against the individual or entity responsible for the violation. Provides that the prevailing plaintiff in a civil action under this provision may be entitled to compensatory damages for actual damages suffered as a result of the obscenity violation. Provides that a civil action for obscenity violations under this provision must be brought within 5 years of the discovery of the violation or the harm caused by the violation. Provides that, in any successful civil action, the plaintiff may be entitled to recover reasonable attorney's fees in addition to the damages awarded. Provides that a court may grant injunctive relief to prevent further violations of this provision, including the cessation of the sale, distribution, or exhibition of obscene material by the defendant. Provides that the civil action may be brought in the county where the defendant resides, where the unlawful sale, distribution, promotion, or exhibition occurred, or where the plaintiff resides, if applicable.

LRB104 17246 RLC 30667 b

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Criminal Code of 2012 is amended by
5 changing Section 11-20 as follows:

6 (720 ILCS 5/11-20) (from Ch. 38, par. 11-20)
7 Sec. 11-20. Obscenity.

8 (a) Elements of the Offense. A person commits obscenity
9 when, with knowledge of the nature or content thereof, or
10 recklessly failing to exercise reasonable inspection which
11 would have disclosed the nature or content thereof, he or she:

12 (1) Sells, delivers or provides, or offers or agrees
13 to sell, deliver or provide any obscene writing, picture,
14 record or other representation or embodiment of the
15 obscene; or

16 (2) Presents or directs an obscene play, dance or
17 other performance or participates directly in that portion
18 thereof which makes it obscene; or

19 (3) Publishes, exhibits or otherwise makes available
20 anything obscene; or

21 (4) Performs an obscene act or otherwise presents an
22 obscene exhibition of his or her body for gain; or

23 (5) Creates, buys, procures or possesses obscene

1 matter or material with intent to disseminate it in
2 violation of this Section, or of the penal laws or
3 regulations of any other jurisdiction; or

4 (6) Advertises or otherwise promotes the sale of
5 material represented or held out by him or her to be
6 obscene, whether or not it is obscene.

7 (b) Obscene Defined.

8 Any material or performance is obscene if: (1) the average
9 person, applying contemporary adult community standards, would
10 find that, taken as a whole, it appeals to the prurient
11 interest; and (2) the average person, applying contemporary
12 adult community standards, would find that it depicts or
13 describes, in a patently offensive way, ultimate sexual acts
14 or sadoomasochistic sexual acts, whether normal or perverted,
15 actual or simulated, or masturbation, excretory functions or
16 lewd exhibition of the genitals; and (3) taken as a whole, it
17 lacks serious literary, artistic, political or scientific
18 value.

19 (b-1) Civil Remedy for Victims of Obscenity Violations.

20 (1) Civil Action for Victims. Any person who is harmed
21 by the unlawful sale, distribution, promotion, or
22 exhibition of obscene material under this Section may
23 bring a civil action against the individual or entity
24 responsible for the violation.

25 (2) Damages. A prevailing plaintiff in a civil action
26 under this subsection may be entitled to compensatory

1 damages for actual damages suffered as a result of the
2 obscenity violation.

3 (3) Statute of Limitations. A civil action for
4 obscenity violations under this subsection must be brought
5 within 5 years of the discovery of the violation or the
6 harm caused by the violation.

7 (4) Attorney's Fees. In any successful civil action,
8 the plaintiff may be entitled to recover reasonable
9 attorney's fees, in addition to the damages awarded.

10 (5) Injunctive Relief. A court may grant injunctive
11 relief to prevent further violations of this Section,
12 including the cessation of the sale, distribution, or
13 exhibition of obscene material by the defendant.

14 (6) Venue. The civil action may be brought in the
15 county where the defendant resides, where the unlawful
16 sale, distribution, promotion, or exhibition occurred, or
17 where the plaintiff resides, if applicable.

18 (c) Interpretation of Evidence.

19 Obscenity shall be judged with reference to ordinary
20 adults, except that it shall be judged with reference to
21 children or other specially susceptible audiences if it
22 appears from the character of the material or the
23 circumstances of its dissemination to be specially designed
24 for or directed to such an audience.

25 Where circumstances of production, presentation, sale,
26 dissemination, distribution, or publicity indicate that

1 material is being commercially exploited for the sake of its
2 prurient appeal, such evidence is probative with respect to
3 the nature of the matter and can justify the conclusion that
4 the matter is lacking in serious literary, artistic, political
5 or scientific value.

6 In any prosecution for an offense under this Section
7 evidence shall be admissible to show:

8 (1) The character of the audience for which the
9 material was designed or to which it was directed;

10 (2) What the predominant appeal of the material would
11 be for ordinary adults or a special audience, and what
12 effect, if any, it would probably have on the behavior of
13 such people;

14 (3) The artistic, literary, scientific, educational or
15 other merits of the material, or absence thereof;

16 (4) The degree, if any, of public acceptance of the
17 material in this State;

18 (5) Appeal to prurient interest, or absence thereof,
19 in advertising or other promotion of the material;

20 (6) Purpose of the author, creator, publisher or
21 disseminator.

22 (d) Sentence.

23 Obscenity is a Class A misdemeanor. A second or subsequent
24 offense is a Class 4 felony.

25 (e) Permissive Inference.

26 The trier of fact may infer an intent to disseminate from

1 the creation, purchase, procurement or possession of a mold,
2 engraved plate or other embodiment of obscenity specially
3 adapted for reproducing multiple copies, or the possession of
4 more than 3 copies of obscene material.

5 (f) Affirmative Defenses.

6 It shall be an affirmative defense to obscenity that the
7 dissemination:

8 (1) Was not for gain and was made to personal
9 associates other than children under 18 years of age;

10 (2) Was to institutions or individuals having
11 scientific or other special justification for possession
12 of such material.

13 (g) Forfeiture of property. A person who has been
14 convicted previously of the offense of obscenity and who is
15 convicted of a second or subsequent offense of obscenity is
16 subject to the property forfeiture provisions set forth in
17 Article 124B of the Code of Criminal Procedure of 1963.

18 (Source: P.A. 96-712, eff. 1-1-10; 96-1551, eff. 7-1-11.)