

Exemption from Obscenity Laws

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Laws regarding obscene material being shown to children:

- Obscenity is handled like slander and libel as speech that is NOT protected by the first amendment of our U.S. Constitution.
- **Obscenity Exemption Statutes (OES)** passed in the 1970's protects school employees who give damaging, pornographic materials to children
- Includes schools, libraries, clinics, hospitals and churches
- OES (exemptions for schools) are in **43 of our 50 states!**
- The seven states without exemptions are: **Alaska, Arizona, Colorado (was invalidated but still on the books), Missouri, Oklahoma, New Jersey, Rhode Island.**
- **It's Perfectly Normal** is just one example of the materials allowed in our schools.
- Under the obscenity loopholes, every student is a potential victim.

Background on MN Obscenity Law:

"Obscenity" is not defined in the federal criminal statute, 18 U.S.C. Sections 1461-1470.

The Supreme Court has devised a "definition" for obscenity that is what is most widely used to define the term. It is known as the Miller test after the name of the case.

Miller v. California, 413 U.S. 15, 23-24, 93 S. Ct. 2607, 2614-15, 37 L. Ed. 2d 419 (1973):

State statutes designed to regulate obscene materials must be carefully limited. As a result, we now confine the permissible scope of such regulation to works which depict or describe sexual conduct. That conduct must be specifically defined by the applicable state law, as written or authoritatively construed. A state offense must also be limited to works which, taken as a whole, appeal to the prurient interest in sex, which portray sexual conduct in a patently offensive way, and which, taken as a whole, do not have serious literary, artistic, political, or scientific value.

Minnesota: 617.291. Sexually explicit material and exhibitions; purpose and policy

Subdivision 1. Finding. The legislature finds that sexually explicit materials and exhibitions presented before an audience are **harmful to minors**.

Subd. 2. Best interest. It is in the best interest of the health, welfare, and safety of the citizens of this state, and especially of minors within the state, that commercial dissemination, and dissemination without monetary consideration in a place of public accommodation, of sexually explicit written, photographic, printed, sound or published materials, and of plays, dances, or other exhibitions presented before an audience, that are deemed harmful to minors, be restricted to persons over the age of 17 years; or, if available to minors under the age of 18 years, **that the availability of the materials be restricted to sources within established and recognized schools, churches, museums, medical clinics and physicians, hospitals, public libraries, or government sponsored organizations.**

Minnesota Statutes Annotated § 617.292

Subd. 7. Harmful to minors. “Harmful to minors” means that quality of any description or representation, in whatever form, of nudity, sexual conduct, sexual excitement, or sadomasochistic abuse, when it:

(1) Predominantly appeals to the prurient, shameful or morbid interest of minors;

(2) is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for minors; and

(3) is utterly without redeeming social importance for minors.



Office of the Revisor of Statutes

Retrieve by number Bills



SF 4413 Status in the Senate for the 91st Legislature (2019 - 2020)

Current bill text: [As Introduced](#)
[Version List](#)

Companion: [HF4521](#)
[Companion Text](#)
[House Search](#)

Revisor number: 20-8139

[Long Description](#)

[Committee Hearings and Actions](#)

[Senate Counsel & Research Summary](#)
[Fiscal Notes](#)

Description

Obscenity laws for public schools exemption removal; civil cause of action creation

Authors (4)

[Hall](#); [Ingebrigtsen](#); [Koran](#); [Kiffmeyer](#)

Actions

Senate

03/16/2020 Introduction and first reading

pg. [5564](#) [Intro](#)

03/16/2020 Referred to [E-12 Finance and Policy](#)

Points to Remember

1. The public expects and should be able to assume that public schools are a safe place for minors. **Intentionally exposing them to obscenity puts children directly in harm's way.**
2. As parents and the public become aware, they are outraged that **schools are exposing their minor children to pornographic materials that in any other circumstances would be considered criminal.**
3. Nothing in current law, the obscenity law or other statute, prohibits schools from teaching human anatomy, biology or avoiding sexual risks, **and this bill does not change that.**
4. No school district should be permitted to show obscenity to children. No MN tax dollars should be used to show obscenity to children.
5. By exempting “educational” materials from obscenity laws, students are often exposed to erotic information and groomed to accept sexual exposure as a social norm. Any adult other than a teacher would be arrested for breaking obscenity laws.

Resources:

<https://cplaction.com/obscenity-laws/>

<https://cplaction.com/wp-content/uploads/ROES-Obsenity-flyer-042318.pdf>

<https://legiscan.com/MN/bill/SF4413/2019>

<https://protectchildhealth.org/issues/obscenity/>