

2C:47-10

LEGISLATIVE HISTORY CHECKLIST  
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(Sexually oriented material-prohibits)

NJSA: 2C:47-10  
LAWS OF: 1997 CHAPTER: 422  
BILL NO: A1779  
SPONSOR(S): Azzolina  
DATE INTRODUCED: March 25, 1996  
COMMITTEE: ASSEMBLY: Law and Public Safety  
SENATE: Law and Public Safety  
AMENDED DURING PASSAGE: No  
DATE OF PASSAGE: ASSEMBLY: November 14, 1996  
SENATE: January 8, 1998  
DATE OF APPROVAL: January 19, 1998

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes  
COMMITTEE STATEMENT: ASSEMBLY: Yes  
SENATE: Yes  
FISCAL NOTE: No  
VETO MESSAGE: No  
MESSAGE ON SIGNING: No  
FOLLOWING WERE PRINTED:  
REPORTS: No  
HEARINGS: No

KBP:pp

P.L. 1997, CHAPTER 422, *approved January 19, 1998*  
Assembly, No. 1779

1 AN ACT concerning the Adult Diagnostic and Treatment Center and  
2 supplementing chapter 47 of Title 2C of the New Jersey Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. a. As used in this act, "sexually oriented material" means any  
8 description, narrative account, display, or depiction of sexual activity  
9 or associated anatomical area contained in, or consisting of, a picture  
10 or other representation, publication, sound recording, live  
11 performance, or film.

12 b. An inmate sentenced to a period of confinement in the Adult  
13 Diagnostic Treatment Center shall not receive, possess, distribute or  
14 exhibit within the center sexually oriented material, as defined in  
15 subsection a. of this section. Upon the discovery of any such material  
16 within the center, the commissioner shall provide for its removal and  
17 destruction, subject to a departmental appeal procedure for the  
18 withholding or removal of such material from the inmate's possession.

19 c. The commissioner shall request an inmate sentenced to  
20 confinement in the center to acknowledge in writing the requirements  
21 of this act prior to the enforcement of its provisions. Any inmate  
22 who violates the provisions of subsection b. of this section shall be  
23 subject to on-the-spot sanctions pursuant to rules and regulations  
24 adopted by the commissioner.

25 d. A person who sells or offers for sale the material prohibited in  
26 subsection b. either for purposes of possession or viewing or who  
27 receives, possesses, distributes or exhibits any text, photograph, film,  
28 video or any other reproduction or reconstruction which depicts a  
29 person under 18 years of age engaging in a prohibited sexual act or in  
30 the simulation of such an act as defined in section 2 of P.L.1992, c.7  
31 (C.2A:30B-2), within the center shall be considered to have committed  
32 an inmate prohibited act and be subject to sanctions pursuant to rules  
33 and regulations adopted by the commissioner.

34

35 2. This act shall take effect on the first day of the fifth month after  
36 enactment.

## STATEMENT

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3 This bill prohibits the receipt, distribution and exhibition of  
4 "sexually oriented material" in the Adult Diagnostic and Treatment  
5 Center, the State's correctional facility for the incarceration and  
6 treatment of sexual offenders. The largest number of offenders in this  
7 facility have been incarcerated there for offenses against minors or for  
8 incest.

9 Once such material is discovered, the bill provides for its removal  
10 and destruction. The initiation of the appeal procedure provided in  
11 the bill would, of course, result in a delay in the material's destruction.  
12 "Sexually oriented material" is defined as:

13 Any description, narrative account, display, or depiction of sexual  
14 activity or associated anatomical area contained in, or consisting of,  
15 a picture or other representation, publication, sound recording, live  
16 performance, or film.

17 Currently, N.J.A.C.10A:18-4.9 permits the withholding in the  
18 mailroom or removal from the inmate's possession of publications  
19 which fall into numerous categories, including one patterned closely  
20 on the statutory definition of "obscene material" which is drawn from  
21 case law. However, this bill would upgrade penalties in the following  
22 manner: a person receiving, distributing or exhibiting sexually  
23 oriented material, representing a broader category of items than  
24 obscene material, would be subject to on-the-spot sanctions now  
25 provided under departmental rules for minor violations pursuant to  
26 N.J.A.C.10A:4-7.3 which include: a) verbal reprimand, b) loss of  
27 recreation privileges for up to five days, c) up to four hours of extra  
28 work duty, d) loss of radio or television privileges for up to five days,  
29 or e) confiscation or f) all of the above.

30 More serious inmate offenses related to obscene material are set  
31 forth in the bill, including the sale or offering for sale of such items or  
32 the possession, distribution or exhibition of child pornography  
33 pursuant to the definitions relating to the depiction of children in  
34 "prohibited sexual acts" set forth in section 2 of P.L. 1992, c.7  
35 (C.2A:30B-2). These infractions would be viewed as inmate  
36 prohibited acts and subject to disciplinary action under the  
37 department's Schedule of Sanctions for Prohibited Acts in subsection  
38 (b) of N.J.A.C.10A:4-5.1. Some of these sanctions include up to 15  
39 days disciplinary detention, loss of institutional privileges for up to 30  
40 days, up to 60 days loss of commutation time, administrative  
41 segregation up to 90 days, and loss of furlough privileges.

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45 Prohibits receipt, distribution, and exhibition of sexually oriented and  
46 obscene material at the Adult Diagnostic and Treatment Center.

ASSEMBLY, No. 1779

STATE OF NEW JERSEY

INTRODUCED MARCH 25, 1996

By Assemblyman AZZOLINA

1 AN ACT concerning the Adult Diagnostic and Treatment Center and  
2 supplementing chapter 47 of Title 2C of the New Jersey Statutes.

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12 b. An inmate sentenced to a period of confinement in the Adult  
13 Diagnostic Treatment Center shall not receive, possess, distribute or  
14 exhibit within the center sexually oriented material, as defined in  
15 subsection a. of this section. Upon the discovery of any such material  
16 within the center, the commissioner shall provide for its removal and  
17 destruction, subject to a departmental appeal procedure for the  
18 withholding or removal of such material from the inmate's possession.

19 c. The commissioner shall request an inmate sentenced to  
20 confinement in the center to acknowledge in writing the requirements  
21 of this act prior to the enforcement of its provisions. Any inmate  
22 who violates the provisions of subsection b. of this section shall be  
23 subject to on-the-spot sanctions pursuant to rules and regulations  
24 adopted by the commissioner.

25 d. A person who sells or offers for sale the material prohibited in  
26 subsection b. either for purposes of possession or viewing or who  
27 receives, possesses, distributes or exhibits any text, photograph, film,  
28 video or any other reproduction or reconstruction which depicts a  
29 person under 18 years of age engaging in a prohibited sexual act or in  
30 the simulation of such an act as defined in section 2 of P.L.1992, c.7  
31 (C.2A:30B-2), within the center shall be considered to have committed  
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33 and regulations adopted by the commissioner.

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4 "sexually oriented material" in the Adult Diagnostic and Treatment  
5 Center, the State's correctional facility for the incarceration and  
6 treatment of sexual offenders. The largest number of offenders in this  
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16 performance, or film.

17 Currently, N.J.A.C.10A:18-4.9 permits the withholding in the  
18 mailroom or removal from the inmate's possession of publications  
19 which fall into numerous categories, including one patterned closely  
20 on the statutory definition of "obscene material" which is drawn from  
21 case law. However, this bill would upgrade penalties in the following  
22 manner: a person receiving, distributing or exhibiting sexually  
23 oriented material, representing a broader category of items than  
24 obscene material, would be subject to on-the-spot sanctions now  
25 provided under departmental rules for minor violations pursuant to  
26 N.J.A.C.10A:4-7.3 which include: a) verbal reprimand, b) loss of  
27 recreation privileges for up to five days, c) up to four hours of extra  
28 work duty, d) loss of radio or television privileges for up to five days,  
29 or e) confiscation or f) all of the above.

30 More serious inmate offenses related to obscene material are set  
31 forth in the bill, including the sale or offering for sale of such items or  
32 the possession, distribution or exhibition of child pornography  
33 pursuant to the definitions relating to the depiction of children in  
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35 (C.2A:30B-2). These infractions would be viewed as inmate  
36 prohibited acts and subject to disciplinary action under the  
37 department's Schedule of Sanctions for Prohibited Acts in subsection  
38 (b) of N.J.A.C.10A:4-5.1. Some of these sanctions include up to 15  
39 days disciplinary detention, loss of institutional privileges for up to 30  
40 days, up to 60 days loss of commutation time, administrative  
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46 obscene material at the Adult Diagnostic and Treatment Center.

# ASSEMBLY LAW AND PUBLIC SAFETY COMMITTEE

## STATEMENT TO

### ASSEMBLY, No. 1779

# STATE OF NEW JERSEY

DATED: OCTOBER 7, 1996

The Assembly Law and Public Safety Committee reports favorably Assembly Bill No. 1779.

Assembly Bill No. 1779 supplements chapter 47 of Title 2C of the New Jersey Statutes to prohibit the receipt, distribution and exhibition of "sexually oriented material" in the Adult Diagnostic and Treatment Center, the State's correctional facility for the incarceration and treatment of sex offenders.

"Sexually oriented material" is defined in the bill as: "Any description, narrative account, display, or depiction of sexual activity or associated anatomical area contained in, or consisting of, a picture or other representation, publication, sound recording, live performance, or film." The provisions of the bill provide for the removal and destruction of sexually oriented materials when they are found within the facility.

Currently, the Department of Corrections has the authority under the provisions of the New Jersey Administrative Code (N.J.A.C.10A:18-4.9) to withhold or remove from an inmate's possession publications which fall into numerous categories, including those materials which, based on case law, are deemed "obscene."

The provisions of this bill upgrade the authority and the administrative penalties available to the department. Under the bill, an inmate who receives, distributes or exhibits sexually oriented material is subject to the on-the-spot sanctions now provided under departmental rules for minor violations pursuant to N.J.A.C.10A:4-7.3. These sanctions include: a) verbal reprimand, b) loss of recreation privileges for up to five days, c) up to four hours of extra work duty, d) loss of radio or television privileges for up to five days, e) confiscation, or f) all of the above.

More stringent sanctions are provided for more serious inmate offenses, such as the sale, possession, distribution or exhibition of child pornography (as defined in section 2 of PL.1992, c.7; C.2A:30B-2). These infractions are deemed "prohibited acts" and subject to disciplinary action under the department's Schedule of Sanctions for Prohibited Acts in subsection (b) of N.J.A.C.10A:4-5.1. Some of these sanctions include up to 15 days disciplinary detention, loss of institutional privileges for up to 30 days, up to 60 days loss of commutation time, administrative segregation up to 90 days, and loss of furlough privileges.

# SENATE LAW AND PUBLIC SAFETY COMMITTEE

## STATEMENT TO

### ASSEMBLY, No. 1779

# STATE OF NEW JERSEY

DATED: MARCH 3, 1997

The Senate Law and Public Safety Committee reports favorably Assembly Bill No. 1779.

This bill prohibits the receipt, distribution and exhibition of "sexually oriented material" in the Adult Diagnostic and Treatment Center, the State's correctional facility for the incarceration and treatment of sex offenders. The majority of offenders in this facility have been incarcerated there for offenses against minors or for incest.

The bill provides for the removal and destruction of sexually oriented material, subject to appeal by the inmate. "Sexually oriented material" is defined in the bill as any description, narrative account, display or depiction of sexual activity or associated anatomical area contained in, or consisting of, a picture or other representation, publication, sound recording, live performance or film.

Currently, N.J.A.C.10A:18-4.9 permits the withholding of in the mailroom, or removal from the inmate's possession, publications which fall into numerous categories, including one patterned closely on the statutory definition of "obscene material." Under this bill, a person receiving, distributing or exhibiting sexually oriented material, which encompasses a broader category of items than obscene material, would be subject to on-the-spot sanctions under current departmental regulations (N.J.A.C.10A:4-7.3) for minor violations, including verbal reprimand, loss of recreation privileges for up to five days, up to four hours of extra work duty, loss of radio or television privileges for up to five days, confiscation or all of these sanctions.

The bill further provides that a person within the center who (1) sells or offers for sale sexually oriented material either for purposes of possession or viewing or (2) receives, possesses, distributes or exhibits any text, photograph, film, video or any other reproduction or reconstruction which depicts a person under 18 engaging in a prohibited sexual act or in the simulation of such an act as defined in section 2 of P.L.1992, c.7 (C.2A:30B-2) commits an inmate prohibited act. The inmate would be subject to disciplinary action under the department's Schedule of Sanctions for Prohibited Acts in subsection (b) of N.J.A.C.10A:4-5.1. Some of these sanctions include up to 15 days disciplinary detention, loss of institutional privileges for up to 30 days, up to 60 days loss of commutation time, administrative segregation up to 90 days and loss of furlough privileges.

This bill is identical to Senate Bill No. 1778, which also was released by the committee on this date.