

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.

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

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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.

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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.