

The following definitions apply in this part, unless the context requires otherwise:

- (1)** "Actual or constructive knowledge" means that a person is deemed to have constructive knowledge of the contents of material who has knowledge of facts that would put a reasonable and prudent person on notice as to the suspect nature of the material;
- (2)** "Community" means the judicial district, as defined in § 16-2-506, in which a violation is alleged to have occurred;
- (3)** "Distribute" means to transfer possession of, whether with or without consideration;
- (4)** "Excess violence" means the depiction of acts of violence in such a graphic or bloody manner as to exceed common limits of custom and candor, or in such a manner that it is apparent that the predominant appeal of the material is portrayal of violence for violence's sake;
- (5)** "Final judgment" or "conviction" means all direct appeals have been exhausted including an application for appeal or for certiorari to the Tennessee or United States supreme court;
- (6)** "Harmful to minors" means that quality of any description or representation, in whatever form, of nudity, sexual excitement, sexual conduct, excess violence or sadomasochistic abuse when the matter or performance:
 - (A)** Would be found by the average person applying contemporary community standards to appeal predominantly to the prurient, shameful or morbid interests of minors;
 - (B)** Is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable for minors; and
 - (C)** Taken as whole lacks serious literary, artistic, political or scientific values for minors;
- (7)** "Matter" means any book, magazine, newspaper or other printed or written material or any picture, drawing, photograph, motion picture film, videocassette or other pictorial representation, or any statue, figure, device, theatrical production or electrical reproduction, or any other article, equipment, machine or material that is obscene as defined by this part;
- (8)** "Minor" means any person who has not reached eighteen (18) years of age and is not emancipated;
- (9)** "Nudity" means the showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering or the showing of the female breast with less than a fully opaque covering of any portion below the top of the nipple, or the depiction of covered male genitals in a discernibly turgid state;
- (10)** "Obscene" means:
 - (A)** The average person applying contemporary community standards would find that the work, taken as a whole, appeals to the prurient interest;
 - (B)** The average person applying contemporary community standards would find that the work depicts or describes, in a patently offensive way, sexual conduct; and
 - (C)** The work, taken as a whole, lacks serious literary, artistic, political, or scientific value;
- (11)** "Patently offensive" means that which goes substantially beyond customary limits of candor in describing or representing such matters;
- (12)** "Prurient interest" means a shameful or morbid interest in sex;
- (13)** "Sadomasochistic abuse" means flagellation or torture or physical restraint by or upon a person for the purpose of sexual gratification of either person;

(14) "Sexual conduct" means:

(A) Patently offensive representations or descriptions of ultimate sexual acts, normal or perverted, actual or simulated. A sexual act is simulated when it depicts explicit sexual activity that gives the appearance of ultimate sexual acts, anal, oral or genital. "Ultimate sexual acts" means sexual intercourse, anal or otherwise, fellatio, cunnilingus or sodomy; or

(B) Patently offensive representations or descriptions of masturbation, excretory functions, and lewd exhibition of the genitals; and

(15) "Sexual excitement" means the condition of human male or female genitals when in a state of sexual stimulation or arousal