

44-12-313. Sexually Explicit Materials

Old vs New

Before the Change

(b) The material shall be considered sexually explicit if the purpose of the material is sexual arousal or gratification and the material meets either of the following conditions:

(1) Contains nudity, which shall be defined as the depiction or display of any state of undress in which the human genitals, pubic region, buttock, or female breast at a point below the top of the areola is less than completely and opaquely covered; or

(2) contains any display, actual or simulated, or description of any of the following:

(A) Sexual intercourse or sodomy, including genital-genital, oral-genital, anal-genital, and anal-oral contact, whether between persons of the same or differing gender;

(B) masturbation;

(C) bestiality; or

(D) sadomasochistic abuse.

To meet the standard, you must have (b) sexual arousal or gratification + (1) or (2)

After the Change

44-12-313 Sexually explicit Materials

(a) No inmate shall have in possession or under control any sexually explicit materials, including drawings, painting, writing, pictures, items, and devices.

(b) The material shall be considered sexually explicit if the average person applying the contemporary community standards would find that the material, taken as a whole:

(1) Appeals to the prurient or lustful interest; (*"prurient" having or encouraging an excessive interest in sexual matters*)

(2) has patently offensive representations or descriptions of:

(A) ultimate sex acts, normal or perverted, actual or simulated, including sexual intercourse, sodomy or bestiality; or

(B) masturbation, excretory functions, sadomasochistic abuse or lewd exhibition of the nude human genitals, buttocks or female breast; and

(C) taken as a whole, a reasonable person would find that the material lacks serious literary, educational, artistic, political or scientific value.

To meet the standard, you must have (1) prurient or lustful interest + (2) offensive representations

(2) Must have meet (A) and or (B) + (C)