

76-10-1203 Pornographic material or performance -- Expert testimony not required.

- (1) Any material or performance is pornographic if:
 - (a) The average person, applying contemporary community standards, finds that, taken as a whole, it appeals to prurient interest in sex;
 - (b) It is patently offensive in the description or depiction of nudity, sexual conduct, sexual excitement, sadomasochistic abuse, or excretion; and
 - (c) Taken as a whole it does not have serious literary, artistic, political or scientific value.
- (2) In prosecutions under this part, where circumstances of production, presentation, sale, dissemination, distribution, exhibition, or publicity indicate that the matter is being commercially exploited by the defendant for the sake of its prurient appeal, this evidence is probative with respect to the nature of the matter and can justify the conclusion that, in the context in which it is used, the matter has no serious literary, artistic, political, or scientific value.
- (3) Neither the prosecution nor the defense shall be required to introduce expert witness testimony as to whether the material or performance is or is not harmful to adults or minors or is or is not pornographic, or as to any element of the definition of pornographic, including contemporary community standards.

Amended by Chapter 92, 1977 General Session