

CHAPTER 26

OFFENSES

ARTICLE I – OBSCENITY – PUBLIC NUISANCE

26-1-1 **OBSCENITY.** A person commits obscenity when, with knowledge of the nature or content thereof, or recklessly failing to exercise reasonable inspection which would have disclosed the nature or content thereof, he:

(A) sells, delivers or provides, or offers or agrees to sell, deliver or provide any obscene writing, picture, record or other representation or embodiment of the obscene; or

(B) presents or directs an obscene play, dance or other performance or participated directly in that portion thereof that makes it obscene; or

(C) publishes, exhibits, or otherwise makes available anything obscene; or

(D) performs an obscene act or otherwise presents an obscene exhibition of his body for gain; or

(E) creates, buys, procures or possesses obscene matter or material with intent to disseminate it in violation of this Section; or

(F) advertises or otherwise promotes the sale of material represented or held out by him to be obscene, whether or not it is obscene.

26-1-2 **OBSCENE DEFINITION.** Anything shall be deemed to be obscene if:

(A) the average person, applying statewide community standards prevailing in the State of Illinois, will find, taken as a whole, it appeals to the prurient interest; and

(B) the average person, applying statewide community standards, would find that it depicts or describes, in a patently offensive way, open and sexual acts or sadomasochistic acts, whether normal or perverted, actual or simulated, or masturbation, excretory functions or lewd exhibition of the genitals; and

(C) taken as a whole, it lacks serious literary, artistic, political or scientific value.

26-1-3 **AFFIRMATIVE DEFENSES.** It shall be an affirmative defense to obscenity that the dissemination:

(A) was not for gain and was made to personal associates other than children under **eighteen (18) years** of age;

(B) was to institutions or individuals having scientific or other justification for possession of such material.

26-1-4 **PUBLIC NUISANCE PENALTY AND ABATEMENT.** That any violation of the St. Clair County Obscenity-Public Nuisance Ordinance is hereby declared to be a public nuisance. A person who violates this Chapter shall be guilty of a petty offense and a fine not exceeding **One Hundred Dollars (\$100.00)**, and for subsequent offense shall be guilty of a misdemeanor and fine not exceeding **Five Hundred Dollars (\$500.00)**. That the State's Attorney may commence an action, including an injunctive action, to abate any violations of this Chapter. **(Ord. No. 88-118; 07-25-88)**

[Editor's Note: This Chapter was formerly Chapter 27.]

ARTICLE II

TRUANCY AND CURFEW CODE

26-2-1 **DEFINITIONS.** As used in this Code unless the context requires otherwise the following words or phrases shall mean:

"County curfew hours" means the period of **11:00 p.m.** on any Sunday, Monday, Tuesday, Wednesday or Thursday until **6:00 a.m.** on the following day; and **12:01 a.m.** until **6:00 a.m.** on any Saturday or Sunday.

"Court" means the Twentieth Judicial Circuit; St. Clair County, Illinois.

"Custodian" means (1) a person who under court order is the custodian of the person of a minor; or (2) a public or private agency with which the court has placed a minor; or (3) a person acting in the role of a parent by reason of a private agreement, arrangement, custom, or habit.

"Emergency" means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to fire, natural disaster, automobile accident, medical emergency or any situation requiring immediate action to prevent serious bodily injury or loss of life.

"Establishment" means any privately owned place of business to which the public is invited, including but not limited to any place of amusement or entertainment.

“Guardian” means (1) a parent or (2) a person who under court order is the guardian of the person of a minor; or (3) a public or private agency with which the court has placed a minor.

“Minor” means a person under **seventeen (17) years** of age,

“Parent” means a person who is a natural parent, adoptive parent, or stepparent of another person.

“Public place” means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, public ways, sidewalks, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities and shops.

“Responsible adult” means a person as least **eighteen (18) years** of age, authorized by a parent, guardian or custodian to have the care and custody of a minor.

“Serious bodily injury” means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ.

“Truancy curfew hours” means the period of the day when the school the minor would normally attend is in session, on days when the school the minor would normally attend is in session.

“Truant Officer” means any officer, appointee, employee or other agent of any school district or any federal, state, or local governmental entity or any agency thereof performing the duties of a truant officer under the Illinois Compulsory Attendance statute. (105 ILCS 5/26-1 et seq.)

“Truancy Review Board” means an agency or entity established by any school district or any federal, state, or local governmental entity or any counseling or social agency or any combination thereof recognized by the county and/or the court as an agency which provides service to improve education performance and/or attendance.

26-2-2 CURFEW RESTRICTIONS.

(A) It is unlawful for any minor to be present in any public place or on the premises of any establishment within the County of St. Clair during county curfew hours.

(B) It is unlawful for any parent or guardian or custodian of a minor to knowingly permit, or by insufficient control to allow, the minor to be present in any public place or on the premises of any establishment with the County of St. Clair during the county curfew hours.

(C) It is a defense to prosecution under **Section 26-2-2(A),(B)** or **26-2-4** (hereinafter) that the minor was:

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- (1) accompanied by the minor's parent, guardian, custodian, or responsible adult;
- (2) on an errand at the direction of the minor's parent, guardian, or responsible adult; without any detour or stop;
- (3) in a motor vehicle involved in interstate travel with the consent or authorization of a parent, guardian or custodian;
- (4) engaged in, going to or returning home from an employment activity without any detour or stop;
- (5) involved in an emergency;
- (6) on the sidewalk abutting the minor's residence;
- (7) engaged in, going to or returning home from an official school, religious, or other recreational activity supervised by adults, sponsored by the County of St. Clair, a civic

- organization or another similar entity that takes responsibility for the minor;
- (8) exercising First Amendment rights protected by the United States Constitution; or
 - (9) emancipated pursuant to law.

26-2-3 **TRUANCY RESTRICTIONS.**

(A) It is unlawful for any minor who is subject to compulsory education or to compulsory continuation education by statute or court order to be present in any public place or on the premises of any establishment within the County of St. Clair during truancy curfew hours.

(B) It is unlawful for any parent, custodian or guardian of a minor to knowingly permit, or by insufficient control to allow, the minor to be present in any public place or on the premises of any establishment within the County of St. Clair during truancy curfew hours.

(C) It is a defense to prosecution under **Sections 26-2-3(A)** or **(B)** or **26-2-4** (hereinafter) that the minor was:

- (1) accompanied by a parent, guardian, or responsible adult if engaged in an activity which would constitute an excused absence from the school from which the minor would normally attend;
- (2) involved in an emergency;
- (3) going to or returning from a medical appointment without any detour or stop;
- (4) engaged in, going to or returning home from an employment activity pursuant to cooperative school vocation program without any detour or stop;

- (5) in possession of valid proof that the minor is a student who has permission to leave the school campus;
- (6) a bona fide participant in an alternative education or home schooling program;
- (7) engaged in or subject to an authorized or excused absence from the school which minor attends, including but not limited to lunch periods.

26-2-4 **ESTABLISHMENT RESTRICTIONS.** It is unlawful for any owner, operator or any employee of an establishment to allow a minor to be present or to remain upon the premises of the establishment in violation of paragraph **26-2-2** or **26-2-3** above during curfew or truancy hours.

It is a defense to prosecution, under this subparagraph if the owner, operator or employee of the establishment immediately upon discovery of a minor reasonably

believed to be in violation of **Section 26-2-2** or **26-2-3** notified the St. Clair County Sheriff's Department that a minor was present on the premises of the establishment during curfew or truancy hours and refused to leave the establishment after being advised to do so by the owner, operator or employee.

26-2-5 **ENFORCEMENT.**

(A) Every member of the sheriff's department while on duty, is hereby authorized to temporarily detain any minor violating the provisions of this Code (regardless of whether a citation is immediately issued) until the parent, custodian or guardian of the minor shall take him or her into custody, but such officer shall immediately upon taking custody of the minor reasonably attempt to communicate with the parent, custodian or guardian of the minor unless subparagraph (E) herein is applicable. A parent, custodian or guardian must take custody of the minor within **one (1) hour** of the time of notice or be subject to a charge of **Twenty-Five Dollars (\$25.00)** per hour as hereinafter provided.

(B) Whenever a police officer or truant officer witnesses or has knowledge based on reasonable grounds of a violation of this code by any person, such person may be issued a citation. A citation or complaint may be made to a police officer or truant officer by any person.

(C) A citation issued hereunder this shall be in writing and shall:

- (1) state the name of the person being cited and the person's address if known;
- (2) set forth the specific section of this article that was violated, the date of the violation and a brief description of the violation;
- (3) be signed by the issuing police officer, truant officer or complaining party.

In each instance where a citation is issued to a minor for violation of this Article a minor's parent, custodian or guardian shall be provided a copy of the citation notifying the parent, custodian or guardian of the charge made against the minor.

(D) A minor cited for a citation under this Article must attend a court hearing or Truancy Review Board hearing on the citation and must be accompanied at the hearing by his or her parent, guardian, custodian or other adult person having the legal care and custody of the minor. If any such person fails to attend any court hearing with the minor, and unless the interest of justice would otherwise be served, the court may continue the hearing and shall issue a Notice or a Rule to Show Cause to the person directing that said person to appear at the continued hearing with the minor. Failure of the person to thereafter appear shall subject said person to sanctions for contempt of court as determined by the court.

(E) Every sworn member of the Sheriff's Department while on duty is hereby authorized to temporarily detain any minor violating the provisions of **Section 26-2-3** of this Article, regardless of whether a citation is issued, and to deliver and surrender the minor to the lawful authorities of the school that the minor would normally attend.

26-2-6 **PENALTY.**

(A) Any person who violated any provision of this Article shall upon conviction thereof be fined as provided in **Section 1-1-20** of the County Code.

(B) In lieu of or in addition to a fine, a minor may be ordered to attend counseling or to perform **ten (10) hours** of court approved community service during times other than the minor's hours of school attendance and/or the minor's parents, guardian, custodian or other adult person having legal care or custody of the minor may be ordered to attend a parenting class or series of parenting classes or other counseling approved by the court or recommended by the Truancy Review Board or to attend any program directly related to improving school attendance and/or performance.

(C) In addition to any penalty imposed pursuant to (A) or (B) above, the minor's parents, guardian, custodian or other adult person having legal care or custody of the minor may be ordered to pay all amounts imposed as civil liability under **Section 26-2-7** hereinafter.

26-2-7 **CIVIL LIABILITY.** If a minor is detained for a period of time in excess of **one (1) hour** which requires the supervision of the minor by personnel of the St. Clair County Sheriff's Department, the parent, guardian, custodian or other adult person having the legal care or custody of the minor shall be jointly and severally liable for the costs therefore. The parent, guardian, custodian or other adult person having

the legal care or custody of a minor who has committed any offense of this Article shall be assessed and billed for the costs; the costs shall be recoverable in any action enforcing any provision of this Article or in a separate civil action. In addition, the failure to pay the costs shall constitute a violation of this Article and subject the violator to the penalties described within **Section 16-2-6** above. In the event any action is filed the liable party shall be responsible for all court costs and any reasonable attorney's fees incurred by the county in collecting.