

AN ACT concerning criminal law.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Criminal Code of 2012 is amended by adding Sections 11-9.2-1 and 11-9.2-2 as follows:

(720 ILCS 5/11-9.2-1 new)

Sec. 11-9.2-1. Lewd sexual display in a penal institution.

(a) A person commits lewd sexual display in a penal institution when he or she is in the custody of a penal institution and knowingly engages in any of the following acts while he or she is confined in a penal institution: engages in a lewd exposure of the genitals or anus, for the purpose or effect of intimidating, harassing, or threatening one whom he or she believes to be in the presence or view of such acts. For purposes of this Section, "penal institution" does not include a facility of the Department of Juvenile Justice or a juvenile detention facility.

(b) Sentence. Lewd sexual display in a penal institution is a Class A misdemeanor. A person convicted of a second or subsequent violation for lewd sexual display in a penal institution is guilty of a Class 4 felony.

(c) A person charged with a violation of this Section shall be eligible for an evaluation for a mental health court

program under the Mental Health Court Treatment Act, the provisions of Section 20 of that Act notwithstanding, and shall be given an eligibility screening and an assessment, pursuant to the provisions of Section 25 of the Mental Health Court Treatment Act, administered by a qualified mental health court professional independent of the penal institution where the individual is in custody.

(d) Notwithstanding the provisions of subsection (e) of Section 25 of the Mental Health Court Treatment Act, a person who has been charged with a violation of this Section shall not be liable for any fines, fees, costs, or restitution unless the person fails to successfully complete that person's court-ordered mental health court treatment program.

(e) All charges against a person for a violation of this Section shall be dismissed upon the court's determination that the person has successfully completed the person's court-ordered mental health court treatment program. Unwillingness to participate in a court-ordered mental health court treatment program may result in prosecution under this Section. Failure to complete a mental health treatment court program shall have the consequences prescribed by the rules and regulations of that treatment court program.

(f) A person is not guilty of a violation of this Section for engaging in the conduct prohibited by this Section, if any of the following are true:

(1) the person is under 18 years of age or not confined

to a penal institution;

(2) the person suffered from a behavioral health issue at the time of the prohibited conduct and that behavioral health issue was the direct cause for the person having engaged in the prohibited conduct; or

(3) the person was not in the actual presence or view of another person.

(g) This Section is repealed on January 1, 2028.

(720 ILCS 5/11-9.2-2 new)

Sec. 11-9.2-2. Lewd sexual display in a penal institution annual report; sunset date.

(a) The Illinois Criminal Justice Information Authority shall compile data provided to it pursuant to this Section and provide an annual report to the Governor and the General Assembly on or before January 1 of each year. The Illinois Criminal Justice Information Authority may include findings or recommendations in its published annual report.

(b) The following data shall be provided to the Illinois Criminal Justice Information Authority on or before October 1 of each year:

(1) each penal institution shall provide the number of persons referred to a county State's Attorney for prosecution of a violation of Section 11-9.2-1, the demographic data of the referred persons, including, but not limited to, age, race, ethnicity, and sex, and any

underlying charge or charges upon which the referred person is being held in the custody of the penal institution; and

(2) each county State's Attorney shall provide the number of persons charged by that State's Attorney for a violation of Section 11-9.2-1, the demographic data of the charged persons, including, but not limited to, age, race, ethnicity, and sex, and the case disposition, or lack thereof, of each charged person.

(c) This Section is repealed on January 1, 2028.