

1 AN ACT concerning criminal law.

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

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

6 (720 ILCS 5/11-9.2-1 new)

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

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

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

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

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

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

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

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

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

1 to a penal institution;

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

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

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

9 (720 ILCS 5/11-9.2-2 new)

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

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

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

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

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

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

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