



LEWD SEXUAL DISPLAY IN A PENAL INSTITUTION

2024 REPORT



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INTRODUCTION & BACKGROUND

In response to feedback from Illinois Correctional Officers (COs) seeking stronger consequences for occurrences of indecent exposure and harassment by inmates within the confines of their correctional facilities, the Illinois legislature amended the Criminal Code of 2012, 750 ILCS 5 (Illinois Senate Democrats, 2023). The criminal offense of “lewd sexual display in a penal institution” became effective January 1, 2024 ([Public Act 103-283](#)), with support from the Illinois Fraternal Order of Police and staff at Illinois correctional facilities (Kliver, 2023).

This is defined specifically in [720 ILCS 5/11-9.2-1](#):

(Section scheduled to be repealed on January 1, 2028)

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:
 - a. The person is under 18 years of age or not confined to a penal institution.
 - b. 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.
 - c. The person was not in the actual presence or view of another person.
- (g) This Section is repealed on January 1, 2028.

DATA COLLECTION

[720 ILCS 5/11-9.2-2](#) required penal institutions to provide the Illinois Criminal Justice Information Authority (ICJIA) with demographic information and underlying charges of any individuals referred to the State's Attorney offices for committing the offense of lewd sexual display in a penal institution. In addition, State's Attorneys were to share the number of referrals they received, the number of individuals they charged, the demographics of those they charged, and the case disposition (or lack thereof) for those charged for violating [Section 11-9.2-1](#).

The statute also required ICJIA to compile these data and provide an annual report to the Governor and General Assembly by January 1st of each year. Collection and submission of data on other sections of the statute (e.g., mental health evaluation and treatment, repeat infractions) is not required. The goal of collecting this data is to identify the frequency and depth of this issue and be able to review trends over time through 2028. As data collection continues each year, ICJIA may be able to provide findings or recommendations based on what is found.

To collect data fully, we obtained contact information for State's Attorneys by using their websites and other public directories with contact information. Due to email contact addresses not being consistently provided on State's Attorneys' websites, we first sent a fax to all State's Attorneys on September 16, 2024. We requested information on referrals and charges for lewd sexual display in a penal institution in the calendar year 2024. We also sent follow-up emails and made phone calls to the State's Attorneys' offices in December 2024.

The Illinois Department of Corrections (IDOC) submitted a spreadsheet to ICJIA with a list of referrals made to State's Attorneys' offices for violations of Section 11-9.2-1. We also checked ICJIA's Criminal History Record Information (CHRI) database for charges under Section 11-9.2-1. CHRI contains records submitted by law enforcement agencies, State's

Attorneys, and court clerks (Westley, 2016). Any State’s Attorney who did not report to us or whose information conflicted with what was recorded by IDOC or CHRI received a follow-up call from ICJIA staff. For example, if the IDOC spreadsheet listed a referral to a specific State’s Attorney but that State’s Attorney reported zero referrals, they received a call. However, State’s Attorneys who we were able to reach were unsure of how the discrepancies occurred. There are challenges with creating a thorough dataset matched to actual events. We cannot say exactly how many offices had discrepant information from CHRI or IDOC, as not all State’s Attorneys reported information.

Despite efforts to report data-driven outcomes in compliance with the legislation, there are limitations. First, not all Illinois State’s Attorneys and jails submitted information to ICJIA. Second, ICJIA staff cannot verify the accuracy of the information reported or the information that is most accurate in the case of conflicting information. During data collection, we learned that some State’s Attorneys were not aware of this offense or reporting requirement. Other State’s Attorneys may have only searched under their felony database, not their misdemeanors. As mentioned, the offense of “lewd sexual display in a penal institution” is a misdemeanor the first time and a Class 4 Felony for subsequent violations. Finally, the 2024 election may have impacted State’s Attorneys’ abilities to keep up with various state data collection requirements and requests. That is, incoming State’s Attorneys may not have known what had or had not occurred prior to their start date. As this is the first year of reporting, there may be barriers, challenges, and parts of the process that have not yet been clarified or deciphered. Future years of reporting should improve upon this process.

RESULTS

The IDOC spreadsheet indicated that IDOC personnel made 12 total referrals to State’s Attorney offices in 2024 for violations of 720 ILCS 5/11-9.2-1. Details are provided in Table 1.

Table 1
Demographics and Underlying Charges of Referred Individuals from IDOC Facilities

Characteristic	Number
Age	
18 - 29	6
30 - 39	5
40 - 49	1
50+	0
Race	
White	0
Black	12
Asian	0
Sex	

Characteristic	Number
Male	12
Female	0
Underlying charge(s)	
Aggravated battery/Discharge firearm	2
Aggravated battery/Peace officer	1
Aggravated kidnapping/Inflict harm	1
Aggravated robbery, Indicate armed with a firearm	1
Armed robbery/No firearm	1
Criminal damage/Government property/<\$500	1
Felony possession/Use firearm prior	1
Possession	1
Public indecency/Exposure/3+	1
Robbery	1
2nd-degree murder	1

Note. "Underlying charge(s)" refers to information on "the underlying charge(s) upon which the referred person is being held in the custody of the penal institution," 720 ILCS 5/11-9.2-2.

In addition to penal institutions reporting the number of referrals they made, State's Attorneys were to report the number of individuals they charged during calendar year 2024. The information ICJIA received is shared in Table 2. Some State's Attorneys may have charged an individual more than once, but this table only reflects the number of total individuals charged.

Table 2

Number of Individuals Charged by State's Attorney's Office

County	Number of individuals charged
Adams	0
Alexander	0
Bond	0
Boone	0
Brown	0
Bureau	0
Calhoun	0
Carroll	0
Cass	0
Champaign	0
Christian	Unknown
Clark	0
Clay	0
Clinton	0
Coles	0

County	Number of individuals charged
Cook	21
Crawford	0
Cumberland	0
DeKalb	0
DeWitt	0
Douglas	0
DuPage	0
Edgar	0
Edwards	0
Effingham	0
Fayette	0
Ford	Unknown
Franklin	0
Fulton	0
Gallatin	0
Greene	Unknown
Grundy	1
Hamilton	0
Hancock	0
Hardin	0
Henderson	0
Henry	0
Iroquois	0
Jackson	0
Jasper	0
Jefferson	Unknown
Jersey	0
Jo Daviess	0
Johnson	0
Kane	1
Kankakee	0
Kendall	0
Knox	0
Lake	0
LaSalle	0
Lawrence	0
Lee	0
Livingston	0
Logan	Unknown
Macon	Unknown
Macoupin	0
Madison	Unknown
Marion	Unknown

County	Number of individuals charged
Marshall	0
Mason	0
Massac	0
McDonough	0
McHenry	Unknown
McLean	0
Menard	0
Mercer	0
Monroe	0
Montgomery	Unknown
Morgan	Unknown
Moultrie	0
Ogle	0
Peoria	0
Perry	Unknown
Piatt	0
Pike	0
Pope	0
Pulaski	0
Putnam	0
Randolph	0
Richland	0
Rock Island	Unknown
Saline	Unknown
Sangamon	Unknown
Schuyler	0
Scott	0
Shelby	0
Stark	0
St. Clair	0
Stephenson	0
Tazewell	0
Union	Unknown
Vermilion	0
Wabash	0
Warren	0
Washington	0
Wayne	0
White	0
Whiteside	0
Will	Unknown
Williamson	0
Winnebago	0

County	Number of individuals charged
Woodford	Unknown

Note. This information was reported to ICJIA by a representative from each State’s Attorney’s office. “Unknown” indicates that we did not receive information from this particular State’s Attorney by December 31st, 2024.

If a State’s Attorney charged individuals, they were to share the demographics of those individuals (i.e., age, race/ethnicity, and sex) as well as the case disposition, or lack thereof, for each person. Table 3 contains information of those State’s Attorneys who submitted this information to us.

Table 3

Charged Individuals’ Demographics and Case Dispositions, if Known

Characteristic	Number
Age	
30 - 39	1
Race/Ethnicity	
Black	1
Sex	
Male	1
Case Disposition	
Hearing Set	1

Note. We did not receive demographic or case disposition information from all State’s Attorneys who indicated that they did charge at least one individual with lewd sexual display in a penal institution.

CONCLUSION

720 ILCS 5/11-9.2-1 provides COs an option to respond against indecent behavior and sexual harassment within their penal institutions. Additionally, individuals who display this behavior can receive mental health evaluation and treatment if related to their conduct. In 2024, the first year of reporting, few penal institutions and State’s Attorneys reported charges related to lewd sexual display in a penal institution. Efforts to boost awareness of this statute for both penal institutions and State’s Attorneys would be useful due to the newness of this particular offense. Criminal justice practitioners may not yet be aware of the ability to bring this charge against persons who are incarcerated. A steady increase in the number of agencies reporting their information will be indicative of better integration of this process into their yearly reporting requirements. Overall, it will be important to have ample data for state officials to be able to assess trends related to this issue. This data collection continues through 2028, which will provide time to improve upon the data collection processes and address gaps in reporting.

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