



Rep. Natalie A. Manley

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10300HB1399ham001

LRB103 24972 RLC 59178 a

1 AMENDMENT TO HOUSE BILL 1399

2 AMENDMENT NO. _____. Amend House Bill 1399 by replacing
3 everything after the enacting clause with the following:

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

1 detention facility.

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

6 (c) A person charged with a violation of this Section
7 shall be eligible for an evaluation for a mental health court
8 program under the Mental Health Court Treatment Act, the
9 provisions of Section 20 of that Act notwithstanding, and
10 shall be given an eligibility screening and an assessment,
11 pursuant to the provisions of Section 25 of the Mental Health
12 Court Treatment Act, administered by a qualified mental health
13 court professional independent of the penal institution where
14 the individual is in custody.

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

21 (e) All charges against a person for a violation of this
22 Section shall be dismissed upon the court's determination that
23 the person has successfully completed the person's
24 court-ordered mental health court treatment program.
25 Unwillingness to participate in a court-ordered mental health
26 court treatment program may result in prosecution under this

1 Section. Failure to complete a mental health treatment court
2 program shall have the consequences prescribed by the rules
3 and regulations of that treatment court program.

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

7 (1) the person is under 18 years of age or not confined
8 to a penal institution;

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

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

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

16 (720 ILCS 5/11-9.2-2 new)

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

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

25 (b) The following data shall be provided to the Illinois

1 Criminal Justice Information Authority on or before October 1
2 of each year:

3 (1) each penal institution shall provide the number of
4 persons referred to a county State's Attorney for
5 prosecution of a violation of Section 11-9.2-1, the
6 demographic data of the referred persons, including, but
7 not limited to, age, race, ethnicity, and sex, and any
8 underlying charge or charges upon which the referred
9 person is being held in the custody of the penal
10 institution; and

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

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